

<b>REPORT OF THE GROUP DIRECTOR, FINANCE &amp; CORPORATE RESOURCES</b>		
<b>GMP Reconciliation - Update and Urgency Delegation</b>	<b>Classification</b> <b>PUBLIC</b>	<b>Enclosures</b>  None
	<b>Ward(s) affected</b>  <b>ALL</b>	<b>AGENDA ITEM NO.</b>
<b>Pensions Committee</b> <b>18<sup>th</sup> December 2019</b>		

**1. INTRODUCTION**

1.1 This report provides the Pensions Committee with details of the Fund’s GMP reconciliation (Guaranteed Minimum Pensions) exercise, which is being undertaken to ensure that scheme member records for periods spent contracted out of the second state pension are properly accounted for. The report clarifies the next stages of the process and the decisions required to be made by the scheme to conclude this exercise.

**2. RECOMMENDATIONS**

2.1 The Pensions Committee is recommended to:

- Approve that all decisions in relation to the completion of this GMP exercise are delegated to the Group Director, Finance and Corporate Resources in conjunction with the Pensions Committee Chair
- Delegate authority to the Group Director, Finance and Corporate Resources to produce a more general Policy relating to the treatment of all over and underpayments (including GMP) relating to scheme members, to provide clarity over the preferred treatment in other situations

**3. RELATED DECISIONS**

- Pension Committee 10<sup>th</sup> September 2019 – GMP reconciliation exercise
- Pension Committee 20<sup>th</sup> March 2019 – GMP reconciliation exercise
- Pension Committee 21<sup>st</sup> March 2018 – GMP reconciliation exercise
- Pension Committee 29<sup>th</sup> March 2017 – GMP reconciliation exercise
- Pension Board 20th March 2017 – GMP Reconciliations
- Pension Board 26<sup>th</sup> January 2016 – GMP Reconciliations – Update and Training

**4. COMMENTS OF THE GROUP DIRECTOR, FINANCE AND CORPORATE RESOURCES**

4.1 This report sets out for the Pensions Committee the issues faced by the Fund as it tries to reconcile historical data for its scheme members for periods during which they were contracted out of the second state pension.

- 4.2 Whilst the cost of undertaking a GMP reconciliation exercise is significant, failure to undertake this work would result in the Fund being made responsible for the payment of any GMP liability that HMRC deems to be associated with it. Indications are that the differences between the Fund's administration data and HMRCs records are considerable, exposing the Fund to significant risk if no reconciliation exercise is undertaken.
- 4.3 The Pensions Committee is requested to approve that all decisions in relation to the completion of this exercise are delegated to the Group Director, Finance and Corporate Resources, and also agree that the Group Director be given delegated authority to approve a more general Policy relating to the treatment of all over and underpayments relating to scheme members, which will also provide clarity over the preferred treatment in other situations that may arise.

## 5. **COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE**

- 5.1 The reconciliation of GMP values is not a mandatory requirement under the Local Government Pension Scheme Regulations 2013. However, conducting a reconciliation exercise can help to reduce the risks to the Fund associated with unreconciled GMP liabilities, such as breaches of the Pensions Regulator's (TPR) code of practice regarding record keeping.
- 5.2 Paragraph 7 of Pensions Committee's Terms of Reference state that it is responsible for monitoring liabilities and undertaking any asset/liability and other relevant studies as required. The Committee is also responsible for monitoring the Pension Fund Budget.
- 5.3 As GMP reconciliation helps to properly measure and control the Fund's liabilities, consideration of such an exercise and its associated costs would appear to fall within the remit of Pensions Committee. The delegation of authority to officers by Council Committees is enabled by the Local Government Act 1972.

## 6. **GMP RECONCILIATION - BACKGROUND**

- 6.1 From 6<sup>th</sup> April 2016 the government introduced the new State Pension (nSP). This was designed to radically simplify pension provision, removing layers of complexity whilst ensuring security in retirement. Amongst the provisions removed was the Additional State Pension (AP), an earnings-related element of the old system. Members of defined benefit occupational schemes such as the LGPS were able to 'contract out' of this element, permitting both employee and employer to pay lower National Insurance contributions as a result. In exchange, schemes guaranteed to provide members with a pension at least as high as they would have received had they not been contracted out. This guaranteed amount is the GMP; it applies to all those who were contracted out between 6 April 1978 and 5 April 1997.
- 6.2 HMRC offered a service whereby schemes can check their GMP records against those held by HMRC and resolve any differences. However, HMRC withdrew the Scheme Reconciliation Service (SRS) at the end of October 2018 and no further support is offered for GMP queries. Pension schemes already undertaking a GMP reconciliation when the support service was withdrawn, can continue to have their GMP queries rectified. Where schemes have not undertaken a reconciliation of their

contracted out liabilities, HMRC takes the stance that its own calculations are final; schemes will become responsible for any GMP liabilities which HMRC believe they hold.

6.3 The reconciliation of GMP values is not a mandatory requirement; however the Fund faces significant risks if its GMP liabilities are not reconciled. These include:

- Incorrect calculation of GMPs by HMRC, potentially increasing the fund's overall liabilities
- Assumed liability for GMPs if HMRC holds records for a fund that are not the fund's responsibility
- Unexpected increase in liabilities if the Fund does not hold records of all the liabilities it is responsible for
- Breach of The Pensions Regulator's (TPR) code of practice regarding record keeping
- Over and underpayment of pension benefits to individual scheme members
- Queries following HMRC notifications to scheme members in 2018
- Reputational issues

6.4 Officers have been working with the pension administrators, Equiniti, on a phased reconciliation project. The project is being undertaken by a specialist team within Equiniti's discontinuance department, and is separate from the main administration service provided to the Fund. It is run on a phased basis, with the scope and estimate costings being agreed for each phase prior to approval.

## 7. **PHASE 3D - RECTIFICATION CASEWORK**

7.1 This phase refers to the physical amendments needed to the administration system and the necessary corrections to those pension benefits already in payment. During earlier phases of this project, Equiniti have identified that there are significant discrepancies between the 2 sets of data (HMRC v Hackney Pension Fund), and a significant amount of work has been ongoing to determine the correct benefits and ensure all systems are updated.

7.2 As a result of resolving these discrepancies, it has been identified that some pension payments are incorrect – some higher than expected and some lower. This also means some pensioners and dependants have had their pensions overpaid or underpaid for a number of years. We have not yet received the details of how many pensioners and dependants are affected, or the impact on their pension payments, but we expect to receive a full report from Equiniti in early 2020.

7.3 It should be noted that these discrepancies, and cases of over/under payment, are something all pension schemes are having to manage, not just the LGPS.

## 8. **DECISIONS FOR HACKNEY PENSION FUND**

8.1 When the full results of this exercise are provided by Equiniti, the scheme will be required to make a number of decisions in relation to the treatment of the scheme members where their GMPs are incorrect, including the treatment of the pension payments. The decisions are complex due to legislation and case law.

8.2 The most sensitive area obviously relates to the pensions that need to be reduced and, in very simple terms, guidance provided to public service pension schemes has

suggested that writing off all overpayments of pensions to date is preferable (where the error is GMP related), but ongoing pension payments should be reduced to the correct level. However the decisions about the treatment of these matters lies with the London Borough of Hackney, as the administering authority of the Fund.

- 8.3 This rectification exercise will need to be completed before the 1 April 2020 when pension increases are applied to benefits. This will avoid Equiniti having to redo their calculations, as well as reducing the risk of potentially incurring HMRC charges. However, given that the required information is still not available to consider these decisions, it will be too late to defer the decisions to the next Committee meeting in March 2020.
- 8.4 Therefore, the Pensions Committee are asked to approve that all decisions in relation to this part of the exercise are delegated to the Group Director, Finance and Corporate Resources in conjunction with the Pensions Committee Chair. Fund officers will work with Equiniti to develop a policy on the treatment of members with incorrect GMPs, which will be reviewed by the Group Director, Finance and Corporate Resources and the Pensions Committee Chair
- 8.5 It is also requested that the Group Director be given delegated authority to approve a more general Policy relating to the treatment of all over and underpayments relating to scheme members (not only relating to this GMP exercise), to also provide clarity over the preferred treatment in other situations. For example, this could include the wish to write off overpayments of pension immediately after the death of a pensioner or dependant.
- 8.6 Full updates will be provided to Pensions Committee at the next meeting in March 2020. The policy developed to assist with decision making on incorrect GMPs will be shared with the Committee as soon as possible. The Pensions Board will also be kept updated given the sensitivities around the treatment of over and underpayments of pension benefits.

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