

## AGENDA ITEM 9

<b>REPORT OF THE GROUP DIRECTOR, FINANCE &amp; CORPORATE RESOURCES</b>		
<b>Major Projects - GMP Rectification and McCloud</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 Board</b> <b>17 March 2021</b>		

### 1. INTRODUCTION

- 1.1 This report provides the Board with an update on the Fund's major projects relating to the GMP rectification and McCloud remedy. Both are important projects being undertaken by the in-house Pensions Administration team alongside our third party administrators, Equiniti, our Governance & Benefits Consultants, Aon and our actuary, Hymans Robertson.

### 2. RECOMMENDATIONS

- 2.1 The Pensions Board is recommended to:
- Note the update and status of both projects

### 3. 7.RELATED DECISIONS

- 3.1 Various Update reports re GMP/McCloud at Pensions Committee and Board, latest at Pensions Committee on 15 March 2021.

### 4. COMMENTS OF THE GROUP DIRECTOR OF FINANCE & CORPORATE RESOURCES

- 4.1 As we have seen in the past, it is most important that member records are correct in order that they are able to receive both correct information regarding accrued pensions rights to date and also eventual release of correct pensions benefits as they become entitled.
- 4.2 Both of the projects that this report provides updates on are in respect of checks and changes to members records following actions by government departments and/or outcomes of court cases that potentially have an impact on the records of members.
- 4.3 The GMP exercise has been ongoing for a while and is now in its final stages, whilst McCloud Remedy Project is at the data collection stage. Both have or will incur significant cost to the Fund. However, if the projects were not undertaken and member records and entitlements not corrected, then it is likely that even more significant costs would be incurred by the Fund in the future.

4.4 There are however no direct financial implications arising from the contents of this report.

#### 4. **COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES**

4.1 The role of the Pension Board is prescribed by Section 106 of the LGPS Regulations 2013 and includes the following: securing compliance with the Local Government Pension Scheme Regulations 2013 and any other legislation relating to the governance and administration of the Scheme and any connected scheme, securing compliance with any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme, ensuring the effective and efficient governance and administration of the Scheme and any connected scheme.

4.2 Taking into account the role of the Pension Board as set out in the Regulations, reviewing the progress made on these two important administrative projects falls within the remit of the Pension Board.

#### 5. **BACKGROUND TO THE REPORT**

##### GMP Rectification

6.1 From 6<sup>th</sup> April 2016 the government introduced the new State Pension (nSP) designed to radically simplify pension provision 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 and it applies to all those who were contracted out between 6 April 1978 and 5 April 1997.

5.2 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.

#### McCloud Remedy

6.5 In 2014 and 2015 the Government introduced changes to public service pension schemes, including the LGPS, for future service, moving from final salary to career average revalued earnings (CARE) benefits and increasing the normal pension age to be in line with state pension age. The changes applied to existing members as well as new joiners, but older members were given protection against the changes. The Court of Appeal, in the McCloud case, has ruled that, in the Judges and Firefighters' Schemes, these changes were discriminatory against younger members and so the Government gave a commitment to make changes to all public service pension schemes, including the LGPS, to remove this discrimination.

6.6 MHCLG launched a consultation on the required changes to the LGPS in July 2020 and the key features of the proposed remedy include levelling up benefits for the younger members who suffered discrimination using a form of final salary underpin. Final regulations are expected to be effective from 1 April 2022 and will be retrospective back to 1 April 2014

6.7 The proposed changes will present a significant administrative burden to LGPS funds. It is expected that the remedy work will be required for a significant number of the Fund's scheme members and it will likely continue for two or three years. Despite this, it is envisaged that only a small number will see an increase in their pension benefits as a result of the new underpin.

## **7. PROJECT STATUS UPDATE**

### The GMP Reconciliation

7.1 As explained in the last report to the Board, a project has been ongoing to reconcile the Fund's GMP data with that held by HMRC, following the change to contracted-out pension rules in April 2016. This has led to the identification of a number of scheme members who have had benefits either overpaid or underpaid, in some cases for a number of years. Equiniti are now finalising the calculations in relation to these overpayments and underpayments. It should be noted that the information we have is still estimated and the final numbers of members affected,

and the impact on these members, will only be known as each case goes through final verification checks. There are approximately 2,000 pensioners and dependents where their GMP on the Fund's records will change. Of those, there are an estimated 771 where their pension will either increase or decrease. Details of these changes are included in the detailed report also on this meeting Agenda relating to the under/over payment policy and GMP reconciliation.

- 7.2 It had been hoped that those pensioners who have been underpaid would have their benefits corrected (and the arrears paid) in the March pensioner payroll (with the overpayment cases being dealt with later this year) but unfortunately the final checks on member data are taking longer than anticipated and it won't be possible to meet the March payroll deadlines. April and May payrolls are affected by the annual Pensions Increase exercise and because of this it is not recommended to make other changes to member records during these payrolls. This means that no members will see their pension corrected as a result of the GMP reconciliation exercise until at least the July payroll (after allowing for recalculations due to the updated Pensions Increase and allowing for all members to receive adequate notice of the amendments to their benefits).
- 7.3 Around 380 members are being reviewed as a separate exercise, and any amendments needed to their benefits will be actioned on an individual basis. These are members who became entitled to their GMP before reaching their State Pension Age (SPA). This makes their calculation more complicated, so additional checks are being undertaken with this group to ensure accuracy and to ensure that checks on this group do not hold up the overall exercise. It is not known at this stage how many of this group will actually see a change to the benefits they are currently receiving.
- 7.4 It is disappointing that the GMP reconciliation exercise will not be finalised as quickly as we had hoped but it is more important to ensure that the calculations are correct and the delay also gives us more time to ensure the communications are appropriate, particularly for those members who are more elderly or who are facing a significant reduction to their benefits. As requested at the last meeting, the communications will be agreed with the Chair before they are finalised.

#### McCloud Remedy

- 7.5 Work has been progressing in the Data; Communications and Finance workstreams, with the workstreams including key officers from Hackney pensions, team members from Equiniti and consultants from Aon (providing Programme management, and technical assurance) and Hymans Robertson, as set out in the Programme Charter.
- 7.6 The Programme has been focussing on priority areas as follows:
- Initial work has been undertaken to identify the membership currently in scope of the extended final salary underpin (c4,100 records or 9% of the membership) based on the proposals consulted upon.

- Requests have been sent to active and former participating employers to obtain data (e.g. part time hours history) required to calculate the underpin.
- The process for checking and validating the new data, prior to uploading the new data to the administration system has been agreed in principle and is under way for those employers who have provided data by the initial end February 2021 deadline. Output from the validation checks will be analysed by Equiniti and reviewed by Hackney pensions team before a decision is made to upload the new data to the administration system.
- Communications with employers and members continues. Members are being directed to the Fund website for updates, and employers have been provided with training on the impact of McCloud at the recent employer forum.
- An impact analysis has been undertaken to get an updated view of the proposed regulatory changes on employer and overall Fund liabilities ahead of the next valuation. This was last considered as part of the 2019 valuation when there was very little detail regarding the proposed remedy. The outcome of this is that it is now estimated that at whole fund level, liabilities increase by £3m, although the overall funding level remains at 92%. The allowance made in the 2019 valuation exercise was adequate to cover this. At employer level, 14 will not be affected as they had no employees meeting the rectification criteria and for the remaining 29 employers, liabilities increase by between 0.1% and 1.2%. The Fund is actively communicating with employers to explain impact on their balance sheet and potential contribution rates at next valuation.

7.7 Additional workstreams will be mobilised shortly focussing on changes that may be required for future ongoing administration; implementing benefit rectification for any members impacted by the underpin who have left active membership, and to consider complex cases and issues such as tax; transfer values and divorce cases.

7.8 Work is largely progressing as planned at this stage, with the only significant issue relating to timescales for receipt of historic council data in the preferred format following the 2017 system migration. However, the necessary data is believed to be accessible from an alternative source if it cannot be obtained from the payroll records, and it is just a question of how to most efficiently collate this.

7.9 Risks continue to be monitored within the Programme governance structure, including oversight from the Programme Management Group. These risks are actively managed and the overall Programme risk is now included in the Fund risk register.

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