LOCAL PENSION BOARD - 24 MAY 2021

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

PENSION SECTION – EMPLOYER RISKS AND EXITS

Purpose of the Report

1. The purpose of this report is to advise the Board of the outcome of the consultation on changes to the Funding Strategy Statement in relation to regulation changes on employer risks and exits. The Board is further asked to consider the Fund's Policy on Employer Risk.

Background

2. The Board received a report on Employer Risks and Exits at its meeting on the 8 February 2021.

3. The Board noted; the draft Funding Strategy Statement (FSS) in relation to changes on employer risks and exits with the Fund employers and noted a further report would follow with the outcome of the consultation and the final version of the Funding Strategy Statement. The FSS is attached as Appendix A.

Changes

4. On the 23 September 2020 new Regulations regarding employer risk came into force. These Regulations are named - Local Government Pension Scheme (Amendment) (Number 2) Regulations.

5. Whilst there is no requirement for the Fund to use any of the new powers, it is useful to note that some of the Regulations changes support what the Fund already does. These Regulations effectively fall into three areas;

   i. **Review of employer contributions** – Currently officers monitor the risk of the Funds employers. However, the Regulations now require the Fund to have a policy on when a review of employer contributions is necessary (outside of the formal Fund valuation process) and the process the Fund will take in doing so.

   ii. **Spreading exit payments** – When an employer last active member leaves the scheme the cessation termination value is calculated. Usually the exiting employers pays the value as a single amount. However, there are rare occasions when the employer requests the payment is spread over a period of time. Officers already allow this to happen in exceptional circumstances and this Regulation change supports this action.

iii. **Deferred Debt Agreements** (DDA) – This introduces a new “deferred employer status” and deferred debt agreements for exiting employers. This formally allows Secondary contributions to be certified for employers with no active members who have not paid their cessation termination value in full.

Consultation

6. The Pensions Committee supported the draft FSS, and approved the consultation with the Fund Employers, at its meeting on the 22 January 2021. The consultation started on the 1 February 2021 and lasted four weeks, ending on the 28 February 2021.

7. During the consultation a small number of employers contacted the Pensions Manager informally, to request further understanding, and all confirmed they were in support of the changes. No Fund employer wrote formally to the Pensions Manager, and there were no issues raised challenging the proposed changes to the FSS by any of the Fund employers.

8. On the 2 March 2021, (just after the Fund’s consultation ended), the Ministry of Housing, Communities and Local Government (MHCLG) produced statutory guidance to Funds on employer flexibilities. On the 5 March 2021 the Scheme Advisory Board provided more detailed guidance to be read alongside of MHCLG’s guidance.

9. The Fund has taken internal Legal advice and it has been confirmed both MHCLG’s statutory guidance and the Scheme Advisory Board’s guidance do not impact on the Fund approach or wording in the FSS. However, the Pensions Manager has taken the opportunity to make the wording more explicit in the FSS in regards employer exits.

10. If an employer leaves the Fund in surplus, and it is proven there is a pension risk share in place between the outsourcing employer and contractor, an element of the surplus may be paid to the contractor. The wording in the FSS has been made more explicit, designed to assist employers on the calculation method, in this scenario. This is highlighted in green in the FSS on pages 45 and 46.

11. The FSS will be taken to Pensions Committee on the 4 June 2021 for approval.

Policy on Employer Risk

12. The Pensions Manager has drafted a Fund Policy on Employer Risk (Appendix B). This is a document that will be published on the Fund’s website and is

designed to assist the Fund employers on how the Fund deals with employer risk.

13. The Policy details how the Fund will score employer risk and how this can influence how employers are considered at Fund valuations. Employers will be encouraged to provide information to Fund Officers, and it will be in their interest to do so, thereby allowing Officers to make more informed judgements of their risk.

14. The Policy also includes detail on how additional security is required by the Fund, designed to protect the Fund and outsourcing employers who transfer staff to contractors, under transfer of undertaking protection of employment rules (TUPE)

15. For openness and transparency, the Policy also includes details of the new employer flexibilities although the Fund policy for this is detailed within the FSS.

16. This is attached as Appendix B. In conjunction with the FSS, the Fund's Policy on Employer Risk will be taken to Pensions Committee on the 4 June 2021 for approval.

Recommendation

17. It is recommended that Board note;

    a. The Funding Strategy Statement
    b. The Fund's Policy on Employer Risk

Equality and Human Rights Implications

None specific

Background Papers

Employer Risks and Exits Local Pension Board 8 February 2021.

MHCLG's statutory guidance

Scheme Advisory Board's guidance;

Appendices

Appendix A – Funding Strategy Statement

Appendix B – Fund Policy on Employer Risk (including the Fund's Employer Risk Template)

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