



Report of : **Corporate Director of Finance and Resources**

| Meeting of | Date | Agenda Item | Ward(s) |
|-----------------------|------------------------------------|-------------|------------|
| Audit Committee | 29 th September 2014 | | All |
| Delete as appropriate | Exempt | | Non-exempt |

Subject: Elected Member Pensions

1 Synopsis

- 1.1 Prior to April 2014 elected members were eligible to join the Local Government Pension Scheme (LGPS). Following the issuing of new LGPS regulations the right for elected members to join the LGPS has been taken away, although existing councillor benefits accrued are protected.
- 1.2 This report sets out the options available to the council should it wish to secure a replacement pension provision for elected members.

2 Recommendations

- 2.1 To note the current position regarding elected members membership of the Local Government Pension Scheme and the advice contained in this report.
- 2.2 To determine whether the Council should make arrangements for an alternative pension scheme for elected members
- 2.3 If it is determined that the Council should make alternative pension arrangements for elected members, to identify a preferred option for the form of that provision, to be the subject of further investigation and appraisal.

3 Background

- 3.1 The Local Government Pension Scheme is a defined benefit scheme and previously was accessible by both council employees, employees in scheduled and admitted bodies and elected councillors. With effect from 1 April 2014 access to the LGPS was abolished for new councillors and terminated for any existing councillors at the end of their fixed term of office on 22 May 2014. Existing benefits already accrued by councillors who were members of the scheme are protected. No national or local replacement scheme for Councillors has been put in place.
- 3.2 Before the change in regulations, 12 of Islington's 48 councillors (25%) were active members of the LGPS contributing 6% of their allowances to the pension fund. The Council paid £32,595 in employer's contributions in the pension fund for those councillors in 2013/14. If all 48 councillors had been active members of the pension fund this would have cost the council £94,000 in employers contributions in 2013/14.
- 3.3 A defined benefit (DB) scheme guarantees an amount of pension at retirement based on the final salary or career average earnings of the individual. A defined contribution (DC) scheme on the other hand, allows the individual to build up a pot of money that is used to provide them with an income in retirement via the purchase of an annuity. That income depends on factors including the amount contributed and the fund's investment performance.

4 Considerations

- 4.1 Officers have been asked to look into an alternative provision of pensions for elected members.
- 4.2 The approach to elected member pensions at other London councils is mixed. Many do not have an alternative provision under active consideration. At least one council has already taken the employer contribution for elected councillors as a budget saving. Newham is the most active borough in considering providing a replacement pension scheme for its councillors. It has already considered this matter and resolved that it should provide a pension scheme for its elected members that provide benefits as close as possible to those available under the LGPS. It had considered the option of a scheme that it could open up to other councils elected members but rejected this due to additional regulatory requirements, financial and legal risk concerns. Newham officers are investigating the appropriate procurement route and whether a full EU tender process is required.
- 4.3 The Council's actuary (Mercer) has provided the following comments on the Newham proposals (based on the limited information provided in the council report):

- **General**

We have assumed that the scheme proposed would be an "off the shelf" Trust based Defined Benefit scheme, providing benefits as close as possible to those under the current LGPS. We have not investigated what schemes are currently available and how comparable they are to LGPS but we are aware of a number of them from our outsourcing work. There is no reference within the Newham paper as to whether any providers have been approached to check that this is a viable proposition.

- **A private sector scheme?**

The scheme would not operate under the LGPS Regulations, nor would it be a “public sector” scheme, despite the membership. This means that in order to be a UK registered pension scheme it would operate under the various Pensions Acts and would be treated in the same way as other UK private sector pension schemes. This includes:

- Trustees rather than the Administering Authority– for an off the shelf arrangement, there is usually a Trustee body totally independent from the employers. Depending on the set up, this could lead to a material dilution of influence on funding and investment decisions.
- The Pensions Regulator (TPR) oversight and involvement with the Pension Protection Fund (PPF) including payment of PPF levies (might not be financially material but assessment may be complex for a local authority).
- Different treatment of exit debts to LGPS, with private sector exit debts typically being higher all other things equal. However, given the ongoing nature of the Councillor participation this may not be a significant problem.

- **Costs (expenses)**

Set up costs – these are potentially material and even prohibitively expensive. Costs will depend on take-up and how the scheme is set up, above. An “off the shelf” arrangement would be less costly than a bespoke scheme but a cost would still be incurred.

Ongoing costs – again, this depends on set-up, member take-up and level of contributions into scheme but there will still be fixed elements of cost to cover which may well be disproportionate to the overall take-up.

- **Membership**

Councillors are not employees of their Councils. Who is the employer for the purposes of the Scheme as this would be required? Does this have any issues for the Council constitution?

- **Funding and investment**

There is likely to be less control and flexibility here although typically there would be some options in the off the shelf schemes.

Investment strategy is likely to be more cautious.

Funding assumptions are also likely to be more cautious than those of LGPS Funds.

Any deficits are likely to be recovered over a shorter period than adopted by LGPS Funds.

These ultimately lead to higher contribution requirements at least in the short term, all other things being equal in terms of benefits.

- **Administration**

The Council would be dealing with another set of administrators so more complexity internally on pensions.

The Council will need to adhere to deadlines/timescales/processes which could be different to LGPS.

Further employer duties may need to be met.

- **Legal / other issues (mentioned in Newham paper)**

The Government against this as a matter of policy

The decision to provide pensions to Councillors would be subject to public scrutiny

There would need to be appropriate Governance put in place at committee/board level – how does this fit into the Council's constitution?

- **Benefit provision objective**

Does it need to be Defined Benefit (DB) pension provision?

Defined Contribution (DC) pension provision is generally less complex although they do not have a benefit guarantee so are not comparable to current arrangements. Further, new flexibilities at retirement are being introduced from 2015 which may be particularly attractive to members although these can also be extended to DB members if schemes allow it.

- **Conclusion**

Given this, and other challenges associated with DB schemes, if you were thinking of making pension provision for Councillors, it may be more attractive to determine reasonable contribution rates into a DC arrangement to target the comparable DB/LGPS benefit rather than attempting more formal "broad comparability" of DB benefits. It may also be attractive to the Councillors given the flexibilities introduced by the Budget. We have a lot experience in this area and indeed have recently helped establish a MasterTrust DC arrangement for Higher Education bodies across the UK.

- 4.4 Discussions with London Councils and the Local Government Association (LGA) has found out that the LGA is actively looking into facilitating the setting up of either a Group Personal Pension or Master Trust Defined Contribution scheme for the sector as a whole and have taken advice on the matter from the actuarial firm Barnet Waddingham.
- 4.5 Prior to considering the options available to the Council, members of the Committee should be mindful of the governments' strong view on this matter. In justifying its decision to exclude councillors from the LGPS, the government said that councillors were not full-time politicians or salaried town hall staff, and that their continuing membership of the LGPS only served to exacerbate the blurring between elected volunteers and paid employees.

Options for Islington

- 4.6 The first decision for the Audit Committee is to determine in principle whether the Council should look to provide a broadly comparable pension provision for elected members or whether the Council could decide to leave it to elected members to choose if and what private pension provision they take up, recognising that those members in existing employment may already have access to a pension scheme and 75% of councillors in the last Council did not join the LGPS.
- 4.7 If the Audit Committee determines that the Council should look to provide a pension for elected members then there is a more complex decision over what form that provision should take.
- 4.8 The Council's actuary has pointed out a number of issues with trying to replicate the LGPS scheme through a Defined Benefit Scheme. In addition advice indicates that the direct costs of such a scheme would be significantly more than the current costs and the required governance and regulatory burdens would further increase the costs. Therefore this approach would not be recommended.

- 4.9 The Council could look to provide a Defined Contribution arrangement such as a MasterTrust DC, an option mentioned by the actuary. Based on advice this option is feasible although a more detailed appraisal of this option would need to be carried out before going ahead with it.
- 4.10 Alternatively, rather than making a specific arrangement for Islington councillors, the Council could await the LGA's development of a sector based approach to providing elected member pensions. This is the most desirable pension provision option as it is likely to incur the least cost and provide a consistent offer to all elected members in local government. How long the LGA scheme would take to implement is unknown at present.

5 Implications

5.1 Financial implications

- 5.1.1 The cost to the Council of providing councillor pensions in 2013/14 was £32,595 for the 12 Councillors in the LGPS, if all 48 Councillors were members this would have cost £94,000. The budget for Councillor pensions remains available to either contribute to funding an alternative scheme or as a further budget saving from 2014/15 onwards.

- 5.2 As stated in the report an alternative pension provision through a Defined Benefit scheme would incur significant set up costs and higher on-going costs. Although these have not been quantified advice is that that these costs would be significantly in excess of the current costs and disproportionate to the number of likely scheme members. A Defined Contribution scheme would incur fewer setup and on-going costs and not have the governance burden of a DB scheme.

5.3 Legal Implications

- 5.3.1 The Council has been advised by Nigel Giffin of Leading Counsel that it has power to arrange pension provision for elected members by virtue of section 1 of the Localism Act 2011. The Council must exercise its discretionary power rationally, for a proper purpose and by reference only to legally relevant considerations. Relevant considerations include the reasons why the government took their view in relation to pension provision for elected members (although the Council is not obliged to agree with the government view). Any decision definitely to adopt particular arrangements would require fuller appraisal of such arrangements, including their cost.

5.4 Environmental Implications

- 5.4.1 None applicable to this report.

5.5 Equality Impact Assessment

- 5.5.1 An equalities impact assessment has not been undertaken on the proposals in this report as the matter is at an early stage.

6 Conclusion and reasons for recommendation

- 6.1 The government has clearly expressed a view that councillors should not be allowed to be active members of the Local Government Pension Scheme. Legal advice indicates that there is no relevant statutory prohibition, restriction or limitation on the Council arranging the separate provision of members' pensions. Members of the Audit Committee are asked for their views on firstly whether the Council should make arrangements for an alternative pension scheme for elected members and if so, secondly whether it should be an Islington specific scheme, DB or DC or whether joining with a national LGA scheme would be preferable.

Background papers: None.

Final Report Clearance

Signed by



17/09/14

Corporate Director of Finance and Resources

Date

Received by

Head of Democratic Services

Date

Responsible Officer : Mike Curtis, Corporate Director of Finance
Report Author : Alan Layton, Director of Financial Management

E-mail : alan.layton@islington.gov.uk