

<b>Subject</b>	<b>Regulatory and Policy Update</b>	<b>Status</b>	For Publication
<b>Report to</b>	Authority Local Pension Board	<b>Date</b>	21 <sup>st</sup> January 2021 28 <sup>th</sup> January 2021
<b>Report of</b>	Director		
<b>Equality Impact Assessment</b>	Not Required	Attached	No
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## 1 **Purpose of the Report**

- 1.1 To provide members with an update on regulatory and policy developments.
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## 2 **Recommendations**

- 2.1 Members are recommended to:
- a. **Note and comment on the various developments in the regulatory and policy environment.**
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## 3 **Link to Corporate Objectives**

- 3.1 This report links to the delivery of the following corporate objectives:

### **Effective and Transparent Governance**

To uphold effective governance showing prudence and propriety at all times.

*Ensuring members are aware of regulatory and policy developments and of officers thinking in relation to the organisational response at an early stage is an important aspect of member learning and development and also of ensuring transparent governance.*

## 4 **Implications for the Corporate Risk Register**

- 4.1 The actions outlined in this report relate to the identified risks around regulatory compliance.

## 5 **Background and Options**

- 5.1 There are a range of developments within the regulatory and policy environment of which Board members should be aware and where officers will be developing appropriate policies during the year ahead. These are outlined below.

### *The £95k Cap*

- 5.2 As has previously been reported it is anticipated that the revised LGPS Regulations which will bring the LGPS regulations in line with the Treasury Directions on this will be made prior to the end of the Financial Year, consultation having closed on the draft proposals during December. The local government trades unions together with Lawyers in Local Government and the Chief Executive's Union (ALACE) have been granted leave for a judicial review in relation to the disconnect between the current LGPS regulations and the Treasury Directions. It is understood that this will pause any action by the Pensions Ombudsman in relation to complaints raised about decisions made in relation to this issue. The Authority has determined a policy position in relation to this issue which is intended to result in any determination made following a challenge by a scheme member being least likely to require the recovery of money from the scheme member. At this stage no further action is required, however, the peak period for redundancy early retirements is around the turn of the financial year, so it will be desirable for the conflict between the two sets of regulations to have been resolved by this point. It is likely that once the new regulations are in place that some policy decisions will be required in relation to the potential underfunding of liabilities caused by the use of the standardised early retirement factors developed by the Government Actuary for the calculation of strain payments when compared with those provided by the Fund Actuary.

### *Employer Flexibilities*

- 5.3 The LGPS (Amendment)(No2) Regulations 2020 introduce new flexibilities which Administering Authorities can choose to exercise with regard to the resetting of employer contributions between formal valuations and the means by which employers can be enabled to exit the Scheme. Officers have been involved in the process of drafting both Statutory Guidance from the Ministry of Housing, Communities and Local Government and guidance from the Scheme Advisory Board in relation to these flexibilities. In order to exercise these flexibilities appropriately it will be necessary to develop and consult on specific policies for inclusion in the Funding Strategy Statement and a report elsewhere on the agenda for the Authority's meeting sets out the process for this and a range of specific considerations.

### *McCloud*

- 5.4 It had been hoped that the regulations relating to the rectification of the McCloud issues within the LGPS would be laid this year with a later implementation date to bring them in line with the other public sector schemes. It now seems that this is unlikely and the LGPS process seems likely to proceed in parallel with the other public sector schemes which require new primary legislation in order to make the relevant changes, and it is not clear when parliamentary time will be available for such legislation. In the meantime given the information available work can continue to gather data and prepare communications in order to implement the remedy.

### *Reporting the Impact of Climate Change*

- 5.5 As part of the Chancellor's announcement before Christmas in relation to the UK's future as a leader in "green finance" it was announced that from 2023 LGPS funds will be expected to include reporting in line with the requirements of the Task Force on Climate Related Financial Disclosure (TCFD) within their annual reports. This is something that the Authority already does on a voluntary basis and other elements to this announcement requiring more companies to report in line with TCFD will make it easier to gather data and provide a more comprehensive picture of the climate impact of the Fund's investments.

### *Statutory Guidance on Pooling*

- 5.6 Information included with the Spending Review and indications from MHCLG are that the long awaited Statutory Guidance on pooling should be published during this year. This follows the abortive informal consultation in 2019 which led to threats of legal action by some funds. Given this and given the limitations on the scope of statutory guidance following the Supreme Court judgement in the Palestine Solidarity Campaign case it is not clear whether there will be both statutory guidance and some proposed changes in regulations. There are risks for the Authority in this area should the process of assessing the benefits of pooling take too narrow a view, and work has already been started following the annual review of the Border to Coast Partnership to identify more clearly the wider benefits of SYPA's participation in the pool.

### *Changes to Local Authority Audit Arrangements*

- 5.7 There are a number of changes to local authority audit arrangements which will impact the Authority.
- Firstly the new Code of Audit Practice requires changes to the way in which the value for money conclusion is produced. This will result in more of a narrative report. It is not yet clear how this process will work for SYPA and officers and the external auditors will be discussing this issue as part of planning for the audit process.
  - Secondly, as a result of the Redmond review of local authority audit it is proposed to move the statutory deadline for the production of accounts back to September from July. (Note due to Covid-19 there was an extension until the end of October in 2020) The Authority has traditionally looked to secure approval of its audited accounts and its full annual report by the end of July and officers see no reason to change this practice which in the context of a wider September deadline will actually make it easier for the District Councils, Fire, Police and Combined Authority Group to deal with pensions issues within their accounts. The external auditors have been made aware of this and so far have not raised any issues.
  - Finally, the Redmond review proposes a range of other changes to financial reporting which the Government have accepted should be implemented. Given the specialist nature of the Authority it is not clear how these will impact on SYPA and work will be required by CIPFA to develop the relevant professional codes before these can be implemented.

- 5.8 The Redmond review also points out the instability in the audit market caused by the unsustainably low fees generated by the way in which audit contracts have been procured. It is therefore regarded as inevitable that there will be some increase in audit fees, although this has yet to be discussed in detail with Deloitte.

## **6 Implications**

- 6.1 The proposals outlined in this report have the following implications:

Financial	There are no direct financial implications arising from this report although it does highlight the likelihood of increases in the level of audit fees.
Human Resources	None
ICT	None
Legal	None directly

Procurement	None
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**George Graham**

**Director**

<b>Background Papers</b>	
<b>Document</b>	<b>Place of Inspection</b>