

ENGAGEMENT WITH THE PENSIONS REGULATOR

Reason for this Report

1. To update the Committee concerning the engagement exercise carried out by The Pensions Regulator between November 2018 and April 2019.

Issues

2. The Pensions Regulator (TPR) has had responsibility for public sector pension schemes (including the Local Government Pension Scheme) since 2015. During 2018 TPR announced that they would be carrying out a review of the LGPS by engaging with a sample of LGPS administering authorities. Authorities were chosen to cover the range of fund sizes and geographical spread within the LGPS, not because of any concerns about the administration of those particular funds. Cardiff was included in the review – the only Welsh fund in the sample.
3. A schedule of meetings between TPR case workers and Council officers was agreed, covering areas which TPR wished to review in depth. The meetings were a combination of face-to-face meetings and conference calls between 28 November 2018 and 4 April 2019.
4. The meetings and calls covered a range of issues, based on TPR's Code of Practice 14 which covers the governance and administration of public sector pension schemes. After each meeting the case workers prepared an 'observation letter' summarising the discussions and making recommendations for action by the administering authority as scheme manager. A recurring issue was that Cardiff Council's Corporate processes are in place and being applied to the pensions administration function but TPR expected to find pensions-specific processes and documentation.
5. An action plan has been agreed in response to TPR's recommendations. A number of actions are already complete or are in progress. The Pension Board minutes have been published as a report to the Pensions Committee and the Committee has approved a Pensions specific Complaints Policy. A member tracing exercise has been carried out and communications have been sent to potential new addresses. Internal procedures are being reviewed and documented with the assistance of Cardiff's Capital Ambition Delivery Team.
6. The recommendations include considering the introduction of a Pension Administration Strategy (PAS). The PAS is an statement of the authority's policies in relation to:
 - procedures for liaison and communication with scheme employers

- establishment of performance targets and service level agreements between the authority and scheme employers
- related procedures including monitoring and reporting of performance against targets and charging additional administration costs to an employer where the employer's performance is unsatisfactory.

The PAS is optional under the LGPS Regulations but TPR consider it best practice for an administering authority to adopt one. Once in place the PAS must be published and kept under review.

7. The implications of introducing a PAS will be considered during 2019/20. Employers and other stakeholders will be consulted and any proposals brought to the Committee for approval.
8. TPR will be producing a summary report on the LGPS drawing conclusions from their engagement with all the authorities in the sample.

Legal Implications

9. The recommendation is an update and no decision is sought. The body of the report confirms that an action plan has been agreed in relation to TPR's recommendations and further reports to committee are anticipated. As such the report does not raise any direct legal implications however, the general legal advice set out below should be considered.

General Legal Advice

10. Any decision must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its tax payers; and (h) be reasonable and proper in all the circumstances and comply with any equalities legislation.
11. The Council also has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief.
12. The Well-Being of Future Generations (Wales) Act 2015 ("the Act") places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.

In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2019-22: <http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf>

The well-being duty also requires the Council to act in accordance with 'sustainable development principle'. This principle requires the Council to act in a way, which seeks to ensure that the needs of the present are met without comprising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrates approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language, the report and Equality Impact Assessment deals with all these obligations. The Council has to consider the Well-being of Future Guidance (Wales) Act 2015 and how this strategy may improve the social, economic, environmental and cultural well-being of Wales.

Financial Implications

13. There are no direct financial implications arising from this report.

Recommendations

14. That the Committee notes the conclusion of the TPR engagement process.

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