UNISON Response to the Local Government Pension Scheme: Changes to the Management of Employer Risk

Introduction

UNISON is the UK's largest public service trade union with 1.25 million members, 1 million of them women. Our members are people working in the public services and for private contractors providing public services including in the essential utilities. They include frontline staff and managers working full or part time in local authorities, the NHS, the police service, colleges and schools, the electricity, gas and water industries, transport, non-departmental public bodies and the voluntary sector. Whilst we have members at all pay levels across the sectors, many of our members are part time and low paid, working in traditionally low paid sectors like care, catering, security and cleaning. We are the largest Trade Union in Local Government with around 700,000 members.

Keeping the LGPS open to members currently covered by the LGPS and sustainable is of paramount importance for UNISON.

UNISON is very concerned at proposals contained in section 3 and 5 of this consultation that would allow and facilitate potentially many solvent employers to leave the LGPS for new staff. We expect this would have a significant detrimental effect on the future long term viability of the LGPS as well as worsen the future pension prospects for many mainly low paid staff.

UNISON has been at the forefront of negotiating changes to the LGPS and believes strongly that these proposals need to re thought and proposal should not pre-empt or undermine the Scheme Advisory Board which is currently working to try and address the issues of admitted bodies and all other non tax raising bodies in the LGPS.

Section 1: Changes to the LGPS Cost Cap Valuation Cycle

As the Government has brought the LGPS scheme valuation onto the same quadrennial cycle as the other public service schemes, do you agree that the LGPS fund valuations also move from triennial to quadrennial cycle? Questions 1 to 3

It makes sense that the fund valuations setting employer contributions are done at the same date as the scheme valuation testing cost share and possibly changing future member benefits and contribution rates. It allows for more transparency and facilitates checks for consistency of technical assumptions used by the scheme and the funds.

Transition to a new LGPS valuation cycle - do you agree with the preferred approach to transition to the new LGPS valuation cycle? Question 4

On the grounds of simplicity we would prefer option a). It would only require one valuation to bring the valuation cycle into line. It should have the same level of certainty if it has the option for interim valuation around 2022. If this 5 year valuation was adopted there needs to be clear guidance for the funds and stakeholders for the mechanism to review costs between valuations.

Section 2: Dealing with changes in circumstances between valuations

Question 5 – Do you agree that funds should have the power to carry out an interim valuation in addition to the normal valuation cycles?

UNISON would support the ability to conduct interim valuations of local funds, but only if the trigger mechanism is strictly defined and there is clear governance in force. It should only take place where there is clear evidence that a change in circumstances is a long term trend and not for example just a short term dip in the markets.

The tone of the proposal is about future increasing costs and scenarios where investment returns decrease. Current valuations show significant growth in scheme asset values and improvements in funding levels. The trend in longevity is to level off and slightly decrease. Projected pay growth has decreased. It should be equally possible for an interim valuation to find cost pressures have decreased.

Question 6-Do you agree with the safeguards proposed?

UNISON would go further and ask for full engagement with local stakeholders and consistency of approach between funds. In addition to the administrating authority's pension committee, fund actuary and local pension board the affected employers should also be engaged.

The reason assumptions have changed should be fully transparent. It is important that employers feel engaged in the process and have a right to question any change in assumptions that are being used to set their contributions. We agree the Secretary of State should be notified. We would want firm guidance to ensure consistency between funds especially on assumptions used at an interim valuation.

Question 7 – Do you agree with the proposed changes to allow a more flexible review of employer contributions between valuations?

UNISON would agree that reviews should be more flexible and the ability for the employer to request a reassessment of its contribution rate. The local fund should have due regard of the assumptions used by other funds for similar employers and transparent on the reasons assumptions may differ. If there is a disagreement on assumptions used there should be a mechanism for getting a second independent actuarial opinion and having due regard for that opinion.

Guidance for setting policy Question 8 and 9

SAB should commission guidance to ensure consistency of approach. In addition to the advice that SAB should provide that is listed under this section there should be guidance on how to manage disagreements between interested parties and the scheme employers around reviewing employer contributions.

Section 3 Flexibility in recovering exit payments

Our view is that a decision to introduce any lessening, deferring or spreading of an exit payment requirement should wait until the completion SAB review on 'Tier 3 employers'. A main purpose of the review is to find ways of encouraging employers to stay in the LGPS.

There is sympathy for those charities and other employers who are in financial difficulties in continuing to contribute to the LGPS, however to be fair to the members of the scheme who may suffer significant loss of pension expectation by the employer withdrawing from the scheme, it should be a requirement that an employer sets out a clear business case why it cannot meet the continuing cost of the LGPS and the business can only survive if members leave the scheme for future benefits. Consideration should be given as to how to compensate members who were originally transferred under Fair Deal and now additionally by the 2007/12 Directions.

Not only is it detrimental to members it could start to have funding implications if these proposals were implemented and widely applied in the future. A report is needed on the potential risk to funds before this is progressed further.

Question 10 – Do you agree that funds should have the flexibility to spread repayments made on a full buy-out basis and do you consider that further protections are required?

Only if the above criteria is met should flexibility be considered to spread the exit payment, but this needs more discussion within SAB and the tier 3 working group.

Question 11 – Do you agree with the introduction of deferred employer status into LGPS?

Question 12 – Do you agree with the approach to deferred employer debt arrangements set out above? Are there ways in which it could be improved for the LGPS?

Question 13 – Do you agree with the above approach to what matters are most appropriate for regulation, which for statutory guidance and which for fund discretion?

Question 14 – Do you agree options 2 and 3 should be available as an alternative to current rules on exit payments?

Question 15 – Do you consider that statutory or Scheme Advisory Board guidance will be needed and which type of guidance would be appropriate for which aspects of these proposals?

We are not convinced that in practice that a Deferred Debt Arrangement would be appropriate as it is likely that a number of employers in that situation would see a weakening of their covenant within 12 months and therefore would be excluded from a DDA in any event. It is our understanding that charities and similar bodies will have a guarantor so there would need to be clarity whether the covenant of the guarantor would be taken into account when determining whether a DDA is feasible.

If the DDA is only available for employers funded above a proscribed level then would they meet the requirement that we would wish to see that the employer can only stop future membership of the LGPS if the future viability of the business depends on it?

In the Scottish model it is not clear what level there is in the transparency of the decision making on reasonable period. It would be better in our view if reasonable period of time should be restricted to a few years and not allowed to drag on into the future. This would also provide greater certainty and protection for the fund.

Any regulatory change to lessen the financial burden on an employer that needs to leave the LGPS on the grounds of serious financial hardship must be backed up by statutory guidance and be operated in a transparent way. We would ask that SAB is given time to complete its work on proposals on Tier 3 employers before any regulation is made adapting these methods throughout the LGPS. Until this is completed we would support no change in how an exit payment is calculated or recovered

Section 4 Exit credits under the LGPS Regulations

Question 16 – Do you agree that we should amend the LGPS Regulations 2013 to provide that administering authorities must take into account a scheme employer's exposure to risk in calculating the value of an exit credit?

Question 17 – Are there other factors that should be taken into account in considering a solution?

We would support the change that where a side or pass through agreement has been in force and the as a result the service provider has not borne any risk that they would pay any deficit payment at exit, then there should be no payment to the contractor if at exit there is a surplus instead of a deficit.

Has there been any consideration of the position if an 'arms length' company set up by the scheme employer to provide a service, comes to an end?

Section 5 Employers required to offer LGPS membership

Question 18 – Do you agree with our proposed approach?

Question 19 – Are you aware of any other equalities impacts or of any particular groups with protected characteristics who would be disadvantaged by the proposals contained in this consultation

The UNISON response to the proposal under this section that was submitted on the 30 July is set out below.

In addition to illustrate what the proposed flexibility could mean for a support worker an example is set out below based on a recent average pay figure for support staff in England working on the average salary for female workers of £21005 pa and then adjusted by .75 to reflect part time /term time to £15753. The average length of service in the LGPS is currently around 7 years

Based on 1/49th CARE scheme the pension would be at Normal Retirement Age

£15753 X7/49 = £2250 pa

Even with a full state pension if this was their only other income they would be near to the poverty line based on minimum income figures produced by the Rowntree foundation.

If they cannot join the LGPS and are put into an average defined contribution arrangement they would be lucky to get even a half of the above pension.

For many of these workers the LGPS is now likely to be the only pension arrangement they will join that provides a reasonable chance of adequate pension when they have to stop working.

The potential number affected may not be high in comparison to the total active membership of the LGPS. But they are potentially significant numbers. Taking higher education alone In the academic year 2017/18 (the most recent year for which we have data) there were 155,455 support staff working in universities in England.

Approximately **half** of these universities will be members of LGPS for support staff – the others will be in local schemes. So a conservative estimate there could be potentially up to 70,000 who could currently be eligible to join the LGPS and the majority are low paid.

Although the impact will not be immediate over time it will be significant if an increasing numbers of employers close the LGPS to new starters. Even by the next valuation some funds are likely to begin to feel the effect on their cash flow.

The main reason for this proposal appears to be that these employers could conceivably become insolvent although even in the consultation it states that the Government expects cases of insolvency to be rare. The effect would be as currently proposed any employer in this sector in England could stop new staff joining the scheme regardless of how solvent they are. If allowed it could open the floodgates to many perfectly solvent employers in the scheme seeking similar flexibility to cut back pensions for mainly low paid staff.

Response to questions 18 and 19 previously sent

The title of this consultation, *'Local Government Pension Scheme (LGPS): Changes to the local valuation cycle and the management of employer risk'*, gives no warning that buried within the consultation is a proposal (**Q18**) to entirely take away the right of some staff to join the LGPS, giving the right to the employer to choose to only offer them an inferior scheme.

This would see an end to the provision of a high quality, affordable, defined benefit pension scheme, and the introduction of a defined contribution pension scheme which, in almost every case, costs the employer less and delivers a much lower pension to employees.

Speaking on behalf of current and future members of the LGPS and the staff set to be denied access to it, we have deep concerns about this direction of travel and the impact of these proposals on the pensions of hard-working public service workers including education sector workers.

The government is fully aware how important current schemes are to public sector staff, including education staff, and that staff have traditionally sacrificed many other benefits (including pay) to maintain access to a good pension scheme and to resist eroding the scheme further. Access to the pension scheme is part of the remuneration package for public sector workers. That strength of feeling led to recent government promises not to meddle in public sector pensions schemes again for twenty five years.

It is, therefore, difficult to believe that the government is now seeking to change the scheme rules by enabling employers to disregard the LGPS and to choose to ONLY offer inferior schemes to new members of staff.

It is even more outrageous that these proposals have only been brought in for "non-teaching" staff (as referred to in the consultation document) in higher education, further education and sixth form colleges and will not affect teaching staff. This will create a two-tier workforce between teaching and support staff with teaching staff not only being paid more whilst at work but being provided with a far superior pension scheme in retirement.

Evidently, these proposals will have a disproportionate impact on lower paid staff, women and part-time workers.

We would strongly suggest that these proposals should be fully assessed under an Equality Impact Assessment as, once again, it looks like the government is either knowingly or unknowingly proposing policy that will impact on women and low paid staff more than on other groups.

We are also deeply concerned at the potential impact on the stability of LGPS as a funded scheme for all current and future members – if fewer people are allowed to join, there will be fewer contributions from employees and employers leading to a potential new threat to scheme funding. It is easy to see this as the thin end of a wedge that could have devastating impacts on the entire scheme.

At a time when the government is encouraging working people to save for retirement by investing in pension schemes, it seems extraordinary that the government is proposing to deny future education workers the chance to join the LGPS. A decent pension scheme, such as the LGPS, will enable more workers to retire with adequate income thereby reducing pensioner poverty and the demand on the state.

Essentially:

The changes, if taken up by colleges/universities, will lead to a two-tier workforce in pensions with new starters being offered inferior and less cost-effective schemes.

Those affected are likely to be lower paid members of staff and mainly women; this could lead to a future challenge that could overturn the proposal and be costly to employers.

If a proportion of employers are able to close membership to new starters this could lead to serious cash flow problems for LGPS funds with a shortfall of contributions coming in while the number of pensioners increase.

For an employer who closes the LGPS to future membership, this could mean higher contributions to LGPS pension funds in the future for all the LGPS pensions that have already been built up for its staff, and this could offset any savings achieved by offering a cheaper and inferior scheme to new starters.

Even in the short term, the cost of setting up inferior pension arrangements may well offset any savings to the employer.

Although initially only affecting England, there are concerns these proposals could undermine universities and colleges who decide to still provide access to the LGPS for new starters and also put pressure on colleges in Wales, Scotland and Northern Ireland.

The LGPS is an affordable scheme - the cost of the LGPS benefits have recently gone down, not up.

The answer to the chronic underfunding of public services currently affecting all areas, including education and especially colleges, is not to withdraw benefits negotiated in good faith, where reassurances were given in 2012 not to make changes again for twenty five years. UNISON believes that it certainly isn’t appropriate to deny a decent pension scheme to predominantly low paid women.

UNISON does not believe that the savings envisaged will be realised and we strongly believe these proposals should be subject to a formal Equality Impact Assessment.

All proposed changes to the LGPS should be negotiated through the governance structures of the LGPS and the current proposals undermine the work being done for the LGPS Scheme Advisory Board to come up for solutions for LGPS employers who are finding it a challenge to remain in the scheme.

On behalf of all UNISON members in the LGPS and future support staff working in higher education, further education and sixth form colleges, we urge you to rethink this aspect of the proposals.

The response to this consultation has been prepared by Glyn Jenkins Head of Pensions UNISON. If you need any clarification on the contents please contact him on:-

g.jenkins@unison.co.uk

31 July 2019