

CIPFA Pensions Network

David Griffiths – 7 July 2015

Clifford Sims – 10 July 2015



Agenda

- Fair Deal
- Employer Contributions/Exit Debts
- IORP
- MiFID
- Investment costs and disclosure

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- Scheme Advisory Board discussion paper March 2015
 - “Protected Transferee Employees/Employers”
 - Higher and Further Education: Fair Deal disapplied
 - Duties on Administering Authorities
 - Re-tenders

D Jones v Ealing Council (2015)

- Background legislation
- Mr Jones employed by Ealing until 2005
- TUPE Transfer to First Contractor: Continued LGPS membership
- TUPE Transfer Second Contractor: (April 2008)
 - Group self-invested personal pension arrangement
 - July 2008 Redundancy: immediate unreduced pension from LGPS
- Claim upheld against Ealing

- Rates and Adjustments Certificate: LGPS Regulations 2013; Regulation 62(1)(c)
- Exit Debts: Regulation 64:
 - Suspension notice – up to 3 years to pay if exiting employer likely to re-employ active member(s)

Thomas Ferens Academy v East Riding Council (2015)

- Academy established 2012
- Transfer agreement “Academy shall be responsible for any LGPS deficit ... referable to service up to and including the Transfer Date”
- Total contribution rate 43.4% (24.6% future, 18.8% past service)
- Reasonableness?
- Ultra vires?

- IORP Article 18 to be transposed into the Investment Regulations?
- The Unison 2007 Opinion: SSAB's further Opinion (September 2014)
- The issues:
 - Is there an ultimate guarantor for LGPS benefits and if so, who is it?
 - In whose interests must LGPS assets be invested?
 - What are the consequences of the LGPS funds being IORPs?
 - If IORP applies to the LGPS, does the law need to change at all?

IORP II Directive: Where Are We Now?

- Green paper June 2010 proposed revising IORP Directive 2003
- ‘Solvency’ was dropped from IORP II in May 2013
- March, September and November 2014: new proposals
- October 2014, EIOPA consultation on the ‘Holistic Balance Sheet’
- May 2015 EIOPA stress-testing exercise published
- December 2015 results published
- March 2016 EIOPA advice to European Commission
- December 2016 in force?

What if IORP is applied to LGPS?

- Separate establishment of LGPS Funds
- Fit and proper persons
- Technical provisions
- Investment regulations
- IORP II

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- FCA DP15/3 March 2015
 - Re-categorisation of local authorities as retail clients
 - Consequences

- DCLG Consultation: Opportunities for collaboration, cost savings and efficiencies May 2014
- CIPFA Management Cost Guidance July 2014
- FCA Wholesale Sector Competition Review FS15/2 February 2015
- Implications for LGPS?
 - Non-disclosure agreements
 - Most Favoured Nation clauses

Contact Details



David Griffiths
Partner
Tel: +44 161 830 5359
Email:
david.griffiths@squirepb.com



Clifford Sims
Partner
Tel: +44 207 655 1193
Email:
clifford.sims@squirepb.com