

CIPFA Pensions Network

Update on Legal Issues

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London – 4 October 2012

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Introduction

- Public Service Pensions Bill
- Fair Deal Update
- LGPS (Miscellaneous) Regulations 2012
 - Auto enrolment
 - Admission Bodies
 - Other
- Recent case law

Public Service Pensions Bill

- Queen's Speech 12 May
- Public Service Pensions Bill
- Reform public service pensions in line with the recommendations of the Independent Public Service Pensions Commission

Public Service Pensions Bill

- Issued 13 September 2012
- Implementation 2013
- £65B savings over 50 years
- Closure of current schemes
- Creation of new schemes

Public Service Pensions Bill

- Capping costs
- Valuations – Role of HM Treasury
- Governance
 - Scheme Manager
 - Pensions Board
- Access for private sector

Fair Deal Update

- Statement in LGPS Heads of Agreement
 - *“Where scheme members are outsourced they will be able to stay in the scheme on first and subsequent transfers (currently this is a choice for the new employer).”*
- Ministerial Statement – July 2012
- Public Service Pensions Bill
- Consultation on new guidance expected
- Continued protection for employees

LGPS (Miscellaneous) Regulations 2012

- Auto enrolment changes
- Changes for Admission Bodies
- Other changes

LGPS (Miscellaneous) Regulations 2012 – Auto Enrolment

- Auto enrolment changes:
 - all eligible employees under Part 1 schedule 2 to be automatically enrolled in LGPS when employment commences (unless contract less than 3 months)
 - eligible employee of admission bodies designated by employer to become active member of LGPS on effective date of designation (unless contract less than 3 months)

LGPS (Miscellaneous) Regulations 2012 – Auto Enrolment

- Other issues:
 - no linkage to staging date
 - opt out provisions
 - contracts of less than 3 months – postponement notice!

LGPS (Miscellaneous) Regulations 2012 – Admission Bodies

- New admission agreements after 1 October 2012
- Community and transferee agreements
- Need separate admission agreements for each contract – no ‘umbrella’ agreements
- Risk self-assessment by admission body (to satisfaction of administering authority/scheme employer)

LGPS (Miscellaneous) Regulations 2012 – Admission Bodies

- Alternative forms of security allowed instead of bond – parent company guarantee
- Funds need to update standard admission agreement precedents

LGPS (Miscellaneous) Regulations 2012 – Other Changes

- Valuation powers for exiting scheme employers
- Update discretionary policy statements

Recent Case Law

- Data Protection
- Pensions Ombudsman
 - Hercberg v Wolverhampton City Council
 - Parry v Bridgend County Borough Council
 - Cooper v West Yorkshire Police

Data Protection - reminder

- Care needed if using external firms to process data
- As 'data controller' need to ensure compliance with DPA requirements and also for processors
- Need contractual agreement

Data Protection



- LGPS fund outsourced digitalisation of member records
- Member records found by member of public on overflowing recycling bank
- Over 800 files deposited
- Contained personal and financial data

Protecting member data



- Fund failed to chose contractor providing sufficient DPA guarantees
- No regular monitoring to ensure compliance
- No contract between Fund and contractor
- Serious breach - fined **£250,000!**

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Summary

- Public Service Pensions Bill
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- LGPS (Miscellaneous) Regulations 2012
- Recent case law

Top tips

1. Auto enrolment compliance
2. Communicate outsourcing changes
3. Update admission agreement precedents
4. Update discretionary policy statement
5. Review third party contracts for DPA compliance

Q&As

