

4 January 2019

Private and confidential

Frank Field MP
Chair
Work & Pensions Committee
House of Commons
London
SW1A 0AA

Dear Sir,

Charities in Local Government Pension Schemes

I would like to bring to the Committees attention the fundamental inequity in the operation of the Local Government Pension Scheme ('LGPS') and how this is needlessly impacting on 100's of UK charities.

I am a specialist adviser in the third sector and have seen first hand how this has impacted on the social and charitable objectives of key organisations and on a number of occasions driven them to insolvency. Despite campaigning through leading charitable and professional bodies and direct contact with Government, DWP and DCLG no-one from a political and regulatory perspective seems prepared to deal with the problem.

Effectively Councils (and other public bodies) are passing on their pension liabilities to LGPS admitted bodies (mostly charities) by stealth and with, in the vast majority of cases, them being wholly unaware of the practice and effect.

Unlike pretty much all other defined benefit schemes in the UK, LGPS does not allocate members service to the employer with which they built up the benefit but instead always allocates it to the latest employer. An example of how this applies could be that a charity takes on an experienced public servant who has worked for the Council for 35 years to help for a couple of years. That charity becomes responsible not just for that employees future service with the charity but for all of the previous 35 years service. The liabilities are transitioned to the new employer as if they fully funded however this is only fully funded on an 'on-going' funding basis. Should the charity want to exit the scheme, or be forced to exit the scheme as no further staff are eligible, then the exit / cessation funding is on a much stronger 'gilts basis'.

To give you a recent example a local authority provided a staff member to a charity on secondment and then the employee transferred to the charity maintaining their LGPS membership. The past Council liabilities were around £250,000 so the charity was allocated £250,000 of assets. However when the member retired, only a couple of years later, the cessation liability due from the charity was in excess of £200,000. The Council, despite the benefits having been built up 'on their watch' have no legislative requirement to assume responsibility for these liabilities so just 'dumps' them on the charity. They will now 'generously' offer to allow the debt to be funded over a period of time

rather than all as an unaffordable lump sum but the charity are still being asked to pay for something which doesn't actually belong to them. This means that valuable charitable assets must be used to fund a Council (or other public body) liability and in some cases this is enough to drive the charity out of business. I am working on numerous cases currently with similar issues hence the reason for this letter.

At the point of transfer there would have been no communication from the Council to explain to the charity what was happening and what the potential financial implications might be. I have had Council officials suggest that all the information is on their website and in multiple available documents, but the charities would have no idea that they needed to look for them, where to look for them or even be able to understand the technical jargon they contain if they did know to look.

I've also had Council officials claim they are independent of the LGPS Fund despite them being ultimately responsible for it and their names being all over LGPS communication so there are very material conflict of interest issues.

This approach is effectively like taking out HP on a car and then when it's paid off being told that you still owe money for the previous owner!

The wholly farcical issues with this are:-

1. If the Council accepted responsibility for their liabilities then they would be added to the overall Council liabilities on an on-going basis so no cessation debt would be due and no additional payment required. The liabilities would be miniscule in relation to the overall Council liabilities. The impact would therefore be nil to at worst negligible;
2. It is a flaw with the LGPS Regulations which requires these historic / legacy liabilities to be re-allocated to the last employer. If these Regulations were amended the problem could be resolved;
3. It is a legacy issue as all bodies joining now would require a Council (or other public body) guarantee to allow them to join. This leads to the wholly ridiculous scenario where a body applying for a contract now would be given a guarantee but one where a contract was undertaken pre the implementation of new Regulations, so without a guarantee, would not be protected.

I would like to see this fully investigated and preferably the following solutions implemented:-

1. Historic liabilities accrued in LGPS must be attributed to the employer where they were built up and not re-allocated to a new employer;
2. Historic liabilities which have been transitioned should be clearly identified and communicated to admitted bodies to allow for remedial action to be undertaken;
3. Any 'strain costs' applicable as a result of redundancy should also be equitably apportioned.

LGPS in England & Wales have recently carried out Tier 3 research but this issue has been strategically ignored. Why would LGPS Pensions Managers give up access to additional monies (i.e. charities cross subsidising Councils) if they aren't forced to do so.

Hopefully this demonstrates how wholly inequitable this whole approach is and how much it is in need to firstly a light shining on it and then for it to be fundamentally reformed.

I look forward to hearing from you.

Yours sincerely

David Davison
Director & Head of Charity Pension Services