

## CLWYD PENSION FUND COMMITTEE

<b>Date of Meeting</b>	Wednesday, 12 <sup>th</sup> June 2019
<b>Report Subject</b>	Employer CARE pay issue
<b>Report Author</b>	Clwyd Pension Fund Manager

### EXECUTIVE SUMMARY

The purpose of this report is to provide a final update on the issue relating to the incorrect CARE pay for LGPS members who are currently working, or previously worked for, Flintshire County Council, which was first highlighted to the Committee at the June 2018 meeting. The project has now concluded and this report considers:

- The final information on the impact this has had; both financial and in relation to the number of members affected,
- A summary of the contact received from affected scheme members during the project,
- Contact we have had from the Pensions Regulator regarding this matter,
- Officers' final conclusions in relation to how the project was undertaken.

### RECOMMENDATIONS

1	That the Committee note this report.
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## REPORT DETAILS

1.00	CURRENT ISSUE
1.01	<p><b>Background</b></p> <p>As first reported at the June 2018 Committee meeting, an error was identified relating to information provided by Flintshire County Council (FCC) via their payroll system, iTrent. For confidentiality purposes, this project is referred to as Project Apple. The project dealing with the rectification of this error has now concluded and this report provides a final overview of the issue and how it was resolved.</p>
1.02	<p>One of the individual items of information that is provided by employers to the CPF Administration Section is the CARE pay for scheme members. This figure is used to calculate the scheme member's accrued pension for each year that they are in the scheme. Usually this is just the scheme member's pay for the year, but where a scheme member has had a period of reduced pay child related leave, or reduced or no pay sick leave, then (in simple terms) a notional pay figure is used for CARE pay which is a higher amount than the actual pay received. This is called "assumed pensionable pay" or "APP". Each employer is responsible for notifying the CPF Administration Section of APP for its scheme members.</p>
1.03	<p>Unfortunately the Employer Liaison Team discovered that the APP figure being extracted from FCC's iTrent payroll system was incorrect for some members. In some cases the APP was being overstated and in other cases the APP was understated. In many cases the APP was incorrectly generated and included where there was no drop in pay. The issue affected APP since the new CARE scheme was introduced from 1 April 2014.</p>
1.04	<p>Several individuals from the Clwyd Pension Fund team and the FCC Payroll team worked together to investigate and resolve this issue and the Chief Executive also received regular briefings. There were two key stages that were considered:</p> <ul style="list-style-type: none"><li>• the need to ensure that the issue was corrected on iTrent going forward – this was a matter for FCC, as the employer, to resolve</li><li>• identifying and correcting the benefits in relation to scheme members that had been affected up to the point the issue was corrected on iTrent.</li></ul>
1.05	<p>As highlighted at previous Committees a set of principles was developed which outlined key matters in relation to how this error was resolved. Key points included:</p> <ul style="list-style-type: none"><li>• FCC (as the employer) would calculate the correct APP figure for these cases using a notional pay figure (effectively an estimate of what the member would have received if they had not been absent) – this work would be carried out by the Employer Liaison Team (ELT) on behalf of FCC.</li><li>• Given the options in relation to how APP could be calculated, a tolerance level of the smaller of £1,000 or 2.5% (of the original figure used in the pension scheme benefit calculation) was adopted to determine which cases were incorrect. Where the difference was</li></ul>

	<p>greater than the tolerance, the benefit was not rectified.</p> <ul style="list-style-type: none"> <li>• No overpayments of pension, lump sum retirement grant, trivial commutation, transfer value or death grant would be reclaimed.</li> <li>• An overstated pension amount would be reduced to the correct level but the member would be given advanced notice, so it would not apply until the following month's pension payment.</li> <li>• All understated pension or other payments would be recalculated and the correct amount put into payment. Balances of underpayments to that point would be paid including interest (which is a requirement of the LGPS regulations).</li> <li>• FCC (the employer) would pay the costs relating to the Employer Liaison Team doing the rectification work, the balance of any underpaid pensions or other benefits (including interest), all written off overpayments that were not being reclaimed, any HMRC charges and any compensation payments for distress or maladministration. All these costs, other than compensation payments, were to be recharged via the employer contribution rate.</li> <li>• Decisions in relation to this project that required to be made by FCC in its role as employer were to be made by Colin Everett (FCC Chief Executive), delegated as appropriate to Sharon Carney (Senior Manager, Human Resources and Organisational Development).</li> </ul> <p>The Committee agreed at a previous meeting that decisions in relation to the Clwyd Pension Fund were to be made by Phil Latham, the Clwyd Pension Fund Manager.</p>
1.06	<p><b>Process and Impact</b></p> <p>The process to investigate and rectify these cases involved calculations that fell into two stages:</p> <ol style="list-style-type: none"> <li>1. Recalculating the APP figure to determine if the case was incorrect in the first place</li> <li>2. Where the case was incorrect, then calculating the impact on the member's total pension benefits and communicating the changes to the scheme member.</li> </ol> <p>There were a number of systems and processes that were developed to ensure the work was carried out as efficiently as possible.</p>
1.07	<p>At the February Committee meeting we notified that there were potential pays for investigating of 2,465 (up to end of January 2019), relating to 1,458 scheme members but that not all 2,465 pays/1,458 members would transpire to be incorrect. As the underlying issue with iTrent had not been rectified at that point, we were updating the master list of potential cases affected each month. The final information relating to the members affected by the error is attached at Appendix 1. As can be seen from the information in the Appendix:</p> <ul style="list-style-type: none"> <li>• The final number of members who were potentially impacted and therefore required to be reviewed was 1,458, albeit 258 were identified as not requiring checks as they were either resolved automatically via a fix within the payroll system or they related to members who had already received a refund of contributions (which is not impacted by the error).</li> <li>• Out of those, 782 required recalculations, but only 536 required a communication notifying them of the error (as the remainder had their annual benefit statement suppressed and they had not</li> </ul>

	<p>previously received any incorrect information).</p> <ul style="list-style-type: none"> <li>Of those that needed rectifying, 58 were pensioners and 42 of these pensioners were subject to an overall reduction in their pension. The remaining 16 pensioners receiving an overall increase in their pension. The largest reduction to annual pension for a member who was receiving their pension was £115.08 per annum. However most pensioners had a reduction to their pension in payment of less than £25 per annum.</li> </ul>
	<p><b>Communications and member experience</b></p>
1.08	<p>Of central importance to the project has been the member experience, with much attention paid to providing affected members with clear information on the error and reassurance that their position has been corrected. This was particularly challenging given the complexity of APP and the error. Communications were designed to be focused by careful segmenting members in accordance with their status and in some cases their personal circumstances. Very early on in the project, the letters were refined to clarify one point that members had been asking about.</p>
1.09	<p>There were only 16 members who made contact throughout the project, and in all but 1 case, this was to seek clarification on items in their letters rather than to make a complaint. It was concluded that the member experience had been as positive as it could have been, given that was only one complaint case, and this was more in relation to their circumstances surrounding ill health early retirement than the APP error. This complaint did not give rise to a need to follow the complaints process and no further action was required.</p>
	<p><b>The Pensions Regulator Breach Report</b></p>
1.10	<p>As mentioned in previous reports, the Clwyd Pension Fund Manager made a formal report to The Pensions Regulator on 10 July regarding this breach of the law by the Clwyd Pension Fund which referred to the incorrect calculation of benefits. Similarly, the FCC (as an employer) also reported a breach relating to their role in notifying incorrect CARE pay information. Throughout the project, officers of CPF were required to share project plan updates and Committee reports with The Pensions Regulator. In addition there were a total of five conference call updates with The Pensions Regulator.</p>
1.11	<p>On 8 May 2019, the Pensions Regulator confirmed that they had considered all the information provided to them during the project, no regulatory action would be taken and they would be closing their file. The following text was included in the letter from the Regulator:</p> <p><i>"We would like to take this opportunity to thank you for the open and transparent way in which you have dealt with The Pensions Regulator (TPR). We find this collaborative way of working helps resolve matters and improve member outcomes more efficiently."</i></p>
	<p><b>Final conclusions</b></p>
1.12	<p>The officers carried out a review of the project in May and they concluded the project had been carried out successfully which was enabled in the</p>

main by the following:

- the existing governance structure of the CPF including quick decision making through the scheme of delegation and useful input from scheme member representatives
- the Council's operational model based around in-house provision of pension and payroll, supported by some outsourcing and professional advice, and in particular the Employer Liaison Team
- the high level of knowledge and skills of the pensions and payroll officers involved, as well as their dedication and considerable goodwill throughout the project.

Some lessons have been noted around earlier escalation of issues and the gathering and interpreting of data. In addition, the project identified two risks for which there are further actions being taken forward.

## **2.00 RESOURCE IMPLICATIONS**

2.01 The issue identified resulted in a large amount of unexpected work for both the CPF Employer Liaison team and Operations Team, some of which was outsourced to Mercer, the Fund's actuaries and benefit consultants. There are no further ongoing resource implications on the Pension Fund as a result of this project.

2.02 The costs of the project which are to be charged to FCC are being calculated by the Fund Actuary.

## **3.00 CONSULTATIONS REQUIRED / CARRIED OUT**

3.01 None.

## **4.00 RISK MANAGEMENT**

4.01 The Fund's risk register continues to highlight the risks of not being able to meet the legal and performance expectations including:

- due to employers not understanding or meeting their responsibilities. This has been updated to reflect additional training that will be given to all employers on calculation of APP.
- due to insufficient staff, which incorporates the impact on resources of this project.

## **5.00 APPENDICES**

5.01 Appendix 1 – Summary statistics of cases reviewed and how impacted.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	<p>Agreed Principles for Rectification and Treatment of Scheme Members – available on request from Clwyd Pension Fund Manager.</p> <p><b>Contact Officer:</b> Philip Latham, Clwyd Pension Fund Manager  <b>Telephone:</b> 01352 702264  <b>E-mail:</b> philip.latham@flintshire.gov.uk</p>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	<p>(a) <b>The Fund – Clwyd Pension Fund</b> – The Pension Fund managed by Flintshire County Council for local authority employees in the region and employees of other employers with links to local government in the region</p> <p>(b) <b>Administering Authority or Scheme Manager</b> – Flintshire County Council is the administering authority and scheme manager for the Clwyd Pension Fund, which means it is responsible for the management and stewardship of the Fund.</p> <p>(c) <b>The Committee – Clwyd Pension Fund Committee</b> - the Flintshire County Council committee responsible for the majority of decisions relating to the management of the Clwyd Pension Fund</p> <p>(d) <b>LGPS – Local Government Pension Scheme</b> – the national scheme, which Clwyd Pension Fund is part of</p> <p>(e) <b>CARE – Career Average Revalued Earnings</b> – With effect from 1 April 2014, benefits accrued by members in the LGPS take the form of CARE benefits. Every year members will accrue a pension benefit equivalent to 1/49<sup>th</sup> of their pensionable pay in that year. Each annual pension accrued receives inflationary increases (in line with the annual change in the Consumer Prices Index) over the period to retirement.</p> <p>(f) <b>APP – Assumed Pensionable Pay</b> - where a scheme member has had a period of reduced pay child related leave, or reduced or no pay sick leave, then (in simple terms) a notional pay figure is used for CARE pay which is a higher amount than the actual pay received. This is called "assumed pensionable pay" or "APP".</p>