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## Regulations update (E&W)

### 1. Key points to note

- LGPS (Miscellaneous Amendment) Regulations 2018
- Exit credits
- Fair deal consultation
- Pensions dashboards consultation

### 2. Decisions

- The committee is asked to note the contents of the report.

### 3. Summary

#### **LGPS (Miscellaneous Amendment) Regulations 2018**

The above regulations were laid before parliament on 18 December 2018 and introduce the changes below:

##### Survivor benefits

- The equalisation of survivor benefits paid to the survivors of same sex marriages and civil partnership with those paid to widows. The change takes effect from the dates that civil partnerships and same sex marriages became legal in the UK, namely:
  - 5 December 2005 in respect of a surviving civil partner of a member; and
  - 13 March 2014 in respect of a surviving spouse of a same sex marriage with a member.
- MHCLG have confirmed they will issue statutory guidance in due course to assist LGPS administering in implementing the change.
- The guidance will set out the requirement for pensions in payment to surviving same sex spouses and civil partners to be revisited and additional sums paid where due. The Secretariat understand that the guidance will also set out MHCLG's expectation that administering authorities should revisit any transfer out payments and trivial commutation lump sum payments.
- The Secretariat will review the regulations in the coming weeks and publish an impact analysis and an updated survivor benefit table in January. .
- The national Communications Working Group will discuss communicating the changes to scheme members at their next meeting on 15 January 2019 - a verbal update will be provided at the meeting.

##### General power to issue statutory guidance

- A general power for MHCLG to issue statutory guidance on the operation of the scheme's rules is introduced from 10 January 2019.
- The regulations require that before preparing or revising guidance, the Secretary of State must consult such persons as he considers appropriate.
- Some responses to the consultation expressed a concern about the potential misuse of such a power and the lack of scrutiny and consultation. In its' response to the consultation MHCLG confirm that "*Nothing in statutory guidance*

*should change or conflict with the meaning of the regulations, unless the courts require a new interpretation to ensure consistency with the Human Rights Act 1998. The purpose of guidance will be to clarify the content of regulations and maintain an appropriate level of consistency in interpretations of its rules between funds”*

### **Exit credits**

- The LGPS (Amendment) Regulations 2018 introduced the requirement to pay an exit credit to exiting employers where, at the exit date, an employer’s assets in the fund exceed the liabilities. The requirement applies to exits on or after 14 May 2018.
- The Secretariat is aware that the payment of exit credits is causing some issues for administering authorities, particularly where:
  - a side contractual agreement is in place providing that no exit debt is payable by the employer in the event that there is an exit debt payable upon exit i.e. pass through.
  - contractors are no longer extending contracts/admission agreements but are looking to terminate the contract and re-bid in order to receive payment of an exit credit.
- In order to raise the issue with MHCLG, the Secretariat asked administering authorities for information on the number and monetary value of exit credits that have been paid or are due to be paid.
- At 7 January, 45 administering authorities had responded to the request for information. 26 exit credits have been paid and 18 are due to be paid – the total monetary value of exit credits (both paid and due) is approximately £82.5m.
- In many cases the amount of exit credit being paid far exceeds the amount the employer has paid into the LGPS in employer contributions e.g. an admission body exited a fund on 31 December 2018 with a surplus of £788,000. The employer commenced its participation in the fund on 1 April 2008 and the total employer contribution received were in the region £278,500.
- The Secretariat is meeting with MHCLG on 8 January 2018 to raise the above issue – a verbal report will be provided at the meeting.

### **Fair Deal**

In April 2018, MHCLG confirmed that the Government remain committed to introducing Fair Deal into the LGPS and that they intended to commence a consultation on new proposals for achieving this by the end of 2018.

The consultation was delayed due to competing pressures faced by central government and is now expected early January.

As confirmed at the last meeting, we understand the consultation will propose introducing the concept of ‘fair deal employers’ within the LGPS. Under fair deal where a scheme employer contracts out a service and compulsorily transfers employees to a service provider, the transferred employees will continue to have access to the LGPS while they remain on the same undertaking.

The consultation will propose that the scheme employer for such transferred members will continue to be the employer the member was in employment with immediately prior to the transfer i.e. the original employer will become a fair deal

employer. Fair deal employers shall include within a service contract with the service provider provisions to deal with the requirements of the scheme. These provisions will be set out in guidance and will cover the delegation of scheme employer duties and responsibilities (including payments and administrative functions) as well as risk sharing provisions.

As the scheme employer does not change the employer contribution rate for such members shall continue as before and shall be met on a full 'pass through' basis.

Additionally, there would be no issues around exit debts or surpluses, and therefore no need to obtain actuarial calculations at the beginning or end of contracts.

The introduction of a fair deal employer will remove the need for 'contractor admission agreements', although we understand that the consultation will propose leaving the admitted body route in place as an alternative.

### **Pensions Dashboards consultation**

- DWP undertook a feasibility study to explore the options for the delivery of online pensions dashboards. The results of that study were released in the form of a government [consultation](#) on 3 December 2018. The consultation seeks views on how the government can best facilitate an industry-led delivery of pensions dashboards. The consultation closes at 11pm on 28 January 2019.
- The consultation proposals include:
  - a non-commercial dashboard hosted by the [Single Financial Guidance Body](#) (SFGB) together with multiple commercial dashboards hosted by different organisations, in order to improve consumer choice and enable them to use the dashboard that most suits their needs.
  - the establishment of a delivery group convened and stewarded by the SFGB, which would work towards the successful implementation of the technology that will allow pensions dashboards to operate.
  - a single 'Pension Finder Service' (PFS) will act as a search engine to find pension schemes linked to an individual.
  - state pension data will ultimately be part of the service.
  - with the consent of the individual, pension schemes will be required in legislation to provide an individual's data via pensions dashboards.
  - public service pension schemes be given longer lead-in times to prepare their data prior to on boarding. It is expected that the pensions industry will start to supply data to a dashboard, on a voluntary basis, from 2019. The majority of schemes will be on-boarded within 3 to 4 years from the first dashboards being available to the public.
- The Secretariat has met with DWP on several occasions to ensure the interests and views of LGPS administering authorities are represented.

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