

Local Government Pensions Committee

Agenda

11am – Wednesday 6 November 2019

Item		Timings
1	Introduction from the new chair	11:00
2	Apologies for absence and declarations of interest	11:05
3	Minutes of meeting held on 8 July 2019 - Paper A	11:10
4	Matters arising	11:15
5	Regulations update for England and Wales – Paper B	11:20
6	SAB update for England and Wales – Paper C	11:35
7	Regulations update for Scotland - Paper D	11:50
8	Regulations update for Northern Ireland - Paper E	12:00
9	Update from Technical Group - Paper F	12:10
10	Training and annual conference update	12:20
11	Any other business <ul style="list-style-type: none">dispute resolution for Worcestershire Pension Fund	12:25
12	Dates of future meetings: 3 Feb 2020, 4 May 2020, 10 Aug 2020 & 2 Nov 2020	

Meeting location – Beecham Room, 7th floor, 18 Smith Square, London, SW1P 3HZ.

**LGPC MINUTES
MEETING HELD ON 8 JULY 2019**

PRESENT

Cllr David Renard	Interim Chair, LGA
Cllr Mark Kemp-Gee	LGA
Cllr Sharon Taylor	LGA
Cllr Alan Waters	LGA
Cllr Adam Paynter	LGA – Dial in
Cllr Clive Lloyd	SAB member [observer]
Mr Kevin Gerard	Technical Group rep – Dial in
Ms Nicola Mark	Scheme Advisory Board adviser
Ms Kimberly Linge	SPPA
Mr Jeremy Hughes	MHCLG
Ms Denise Le Gal	Guest
Secretariat	
Mr Jeff Houston	LGPC
Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Mr Karl White	LGPC
Ms Elaine English	LGPC

1. INTRODUCTION FROM INTERIM CHAIR

The Interim Chair Cllr David Renard [DR] informed the Committee that, as Ms Denise Le Gal [D LG] was not re-elected in May, he was appointed the Interim Chair for this meeting by the LGA Political Groups. DR welcomed D LG to the meeting and on behalf of the Committee thanked her for her dedicated service and valuable support over many years and wished her the very best for her future ventures. Jeff Houston [JH] on behalf of the LGPC Secretariat also thanked D LG for her excellent service.

DR announced that a new member Cllr M Kemp Gee has been appointed and welcomed him to the meeting.

A new Chair will be appointed after the LGA Political Groups make their nominations.

2. APOLOGIES

Apologies were received from Cllr Goronwy Edwards – LGA, Cllr John Fuller – LGA and Mr David Murphy – Northern Ireland.

Cllr Donna Taylor – LGA and Cllr Simon Blackburn – LGA did not attend the meeting.

Introductions were made and no declarations of interest were reported.

3. MINUTES

The minutes of the previous meeting held on 8 April 2019 were agreed.

4. MATTERS ARISING

At the LGPC meeting held on 16 January 2019 a request was made for the Secretariat to produce a document that explains the roles of the LGA, LGPC, SAB and other groups. The first draft was circulated at the meeting on 8 April 2019 when a further request was made to add more detail to the document, specifically how elected members are nominated and the role of local pension boards.

Lorraine Bennett [LB] presented an updated version of the document (paper B).

The Committee thanked LB for the excellent document and agreed that it provides clear explanation of a complex area.

Nicola Mark [NM] requested an addition to explain who a councillor should contact if they want to join the LGPC. She also asked that the document contain more information about the make-up of the SAB. Kevin Gerard [KG] suggested that the SAB subcommittees should be mentioned. The Committee agreed that this could be added to the narrative and that no further changes should be made which may complicate the diagram.

Action: LGPC to make final changes and circulate 'The LGPS Community' paper to all stakeholders.

5. LGPC BUDGET

LB presented paper C, in particular highlighting:

The LGA pension team provides an advisory and training service to LGPS administering authorities across the UK, which is funded by a subscription paid by those authorities and income from training.

- The LGPC subscription charge has remained frozen since 2014/15
- An increase of 2% is proposed for the year 2019/20

The LGA pensions team proposes commissioning five member videos to promote the benefits of LGPS membership and increase member understanding of the

Scheme. Based on the increased subscription and a conservative estimate of income from training, there would be a small budget deficit in the 2019/20 year.

LB asked for the Committee's agreement to the proposed increase in subscription charge and to the use of reserves to fund part of the cost of producing the member videos.

The Committee agreed that the proposed increase in subscription was proportionate and in line with local government salary awards. It was also agreed that an annual incremental increase was preferred in future years, rather than freezing for a number of years followed by a larger single year increase.

The Committee approved the increase in subscriptions.

LB confirmed that a further two member videos covering pension taxation will be funded by the Scheme Advisory Board.

Cllr Sharon Taylor [ST] asked about the impact of pension taxation on recruiting to senior posts and the retention of senior staff, and whether there is evidence that higher earners are leaving employment or opting out of the Scheme because of pension taxation.

JH stated that he had recently met with HM Treasury to discuss pension taxation. Discussions are ongoing about changes to public sector pension schemes that would lessen the impact of pension taxation, particularly the introduction of flexibility in accrual rates.

KG pointed out that those affected by the Lifetime Allowance are more likely to opt out of the Scheme, but the Annual Allowance currently has a higher profile and affects more members.

The Committee agreed to the commission of the videos and the use of reserves to fund them. The budget was agreed.

Action: LB to write to all administering authorities with details of the new subscription charges. Invoices will be produced by the end of September 2019. LGA pensions team to proceed with video project.

6. LGPC response to the 'Changes to the Local Valuation Cycle and the Management of Employer Risk' consultation

JH presented the key points for the Committee to note from paper D, in particular highlighting:

- In May MHCLG published a consultation relating to valuations and employer risk, which closes on 31 July 2019
- JH raised a number of points of principle that would, with the Chair's agreement, form the basis of the LGPC response

The Committee debated the paper in full and a summary of the discussion and decisions is below.

Valuation Timetable

The consultation asks for views on the timetable that should be followed to align the Scheme valuation with the LGPS fund valuation. The Committee supported a three plus two year transition timetable. NM noted that a fund's investment strategy may be changed in response to the valuation result, and that changes may not have been fully implemented by the date of the next valuation, based on this proposed timetable. The Committee recognises the significant additional administrative burden that this timetable would place on administering authorities, but believes this option provides an appropriate level of financial oversight in a time of change. Cllr Alan Waters (AW) asked if this would be classed as a new burden and qualify for funding.

Interim Valuations

The greater flexibility offered by the power to perform interim valuations was welcomed by the Committee. It was noted that each administering authority's Funding Strategy Statement must set out the criteria for performing an interim valuation of an employer or group of employers.

Exit payments

The Committee was in favour of introducing flexibility in how an exiting employer (an employer with no active members) meets the cost of its liabilities in the pension fund. It was emphasised that this should be an administering authority discretion and deciding on the appropriate path for an exiting employer must be a purely financial decision that minimises the financial risk to other employers in the fund. The Committee were of the view that that the regulations should reference the need for administering authorities to obtain appropriate financial advice before agreeing to spread deficit payments or agree to a deferred employer status.

Exit credits

The Committee supported changes in the regulations that would allow risk sharing to be taken into account in assessing the level of any exit credit payable to an exiting employer. NM asked about timescales because this is a live problem faced now by pension funds. Jeremy Hughes [JHu] confirmed that MHCLG is currently seeking legal advice on retrospection and that regulation changes that result from this consultation are likely to be phased. It is hoped that the first set of draft regulations will appear before the end of 2019.

Proposed changes for further and higher education establishments and sixth form colleges

The Committee recognised that the change in status of these organisations means that grouping them with local authorities and academies in terms of the LGPS regulations may no longer be appropriate. If the sector chooses not to offer the LGPS to new employees then this would have effect on future cash flows. The Committee were also concerned that this proposal could lead to similar moves in the Teachers' Pension Scheme which could result in increased employer contributions for local authorities. JH confirmed that the Scheme Advisory Board project looking at options for tier three employers including higher and further education establishment is still underway. The Committee agreed that the consultation response should

recommend a pause in these proposed changes until the SAB tier three project is complete so that an evidence-based decision can be made.

An update on the tier three project will be provided at the next meeting.

7. REGULATION UPDATE [E&W]

LB presented the key points from paper E:

The LGA response to the consultation on 'Restricting exit payments in the public sector'

- HM Treasury launched a 12 week consultation in April 2019
- The LGA responded ahead of the 3 July 2019 deadline and made their response available to employers and LGPS administering authorities to assist with their own response.

There are many problems with the draft consultation documents, particularly:

- The approval process to relax the cap
- The scope of the cap and that it may impact local government workers on moderate incomes
- Uncertainty over how this policy will be implemented in the LGPS
- No implementation period is set out.

JHu stated that meetings are planned with some of the councils that are in the process of reorganisation, as they had already raised concerns that this process may be frustrated due to uncertainty about the effect of this policy and timescales for its implementation.

Fair Deal

- The consultation closed on 4 April 2019. The main proposal is the introduction of 'deemed employer' status in the LGPS – with the original local government employer remaining the employer for pension purposes when an employee is compulsorily transferred to a service provider
- The Scheme Advisory Board are working closely with MHCLG to produce comprehensive guidance
- Guidance and new regulations must be produced at the same time and are expected to come into force in spring 2020.

Pensions Dashboard

- The Government published its response to the consultation on 4 April 2019 which confirmed that they will introduce legislation compelling pension providers to make consumers' pension data available on the dashboard
- Participation will be staged with most schemes onboarded within three to four years
- The dashboard will include state pension data

- MAPS – The Money and Pensions Service will take the leading role in delivering the non-commercial dashboard.

Factor Review

- MHCLG in conjunction with GAD have undertaken a review of actuarial guidance in relation to the LGPS
- A technical consultation on proposed changes to the late retirement factors and methodology was undertaken in April 2019
- New factors and methodology will take effect from 1 September 2019 and will remove the 'cliff edge' effect which reduced the value of some members' LGPS benefits when the factors last changed in January 2017.

LGPS Knowledge System

- The national Technical Group requested that the LGA procures a LGPS knowledge system on behalf of administering authorities in England and Wales. The LGA are currently in the process of writing to each administering authority to ask them to confirm they are willing to sign a legal agreement with the LGA so that the procurement process can begin.

8. SAB REPORT E&W

JH presented the key points for the Committee to note from paper F, in particular highlighting:

McCloud judgment

- The Supreme Court denied the Government's request to appeal the McCloud decision. The SAB has produced a Q & A which can be found on the cost management page of their website
- We expect a ministerial statement confirming that the decision relates to all public sector schemes and not just the Firefighters' and Judges' pension schemes
- Updates will be provided once the next steps are confirmed

NM commented on the far-reaching implications of this decision for employers, elected members and administrators and stated that it would be useful for the LGA to issue a guidance note to confirm the current position and the steps that have taken.

Formal consultation on pooling

- MHCLG have confirmed that a formal consultation on pooling is forthcoming but is unlikely to be launched before the summer recess.

Good Governance

- Hymans Robertson have been awarded the contract to look into how LGPS functions are delivered within the framework of a local authority. They will

consider best practice, conflicts of interest and the role of the Section 151 officer.

Simplification Project

- A working group made up of representatives from trade unions, actuaries, MHCLG, SAB, LGA, and depending on the topics covered, scheme employers, payroll providers, software providers and administering authorities is considering areas where flexibility could be introduced to the LGPS regulations. A progress report will be provided at the next Scheme Advisory Board meeting in November.

Local Pension Boards survey

- The survey is due to be issued imminently and progress will be reported at the next meeting.

Pensions Tax

- HM Treasury are currently considering concerns raised across the public sector about the impact of pension taxation on the public sector workforce and the resulting effect on delivery of essential services.

9. REGULATIONS UPDATE SCOTLAND

The Committee noted the key points from paper G which was presented by Kimberly Linge (KL).

LGPS Regulations (Scotland) (Miscellaneous Amendments) Regulations 2019 came into force on 28 June 2019, and made the following changes:

- Extended the flexibility to take an uncrystallised funds pension lump sum from a member's AVC provider to deferred members
- An active member who is absent from work with permission for a continuous period of 30 days who is receiving reduced or no pay must pay contributions on the pensionable pay the member would have received
- A deferred member who is age 55 or over may elect to receive immediate payment of a retirement pension, reduced in line with the actuarial guidance
- No account is to be taken of any reduction in pay when working out Assumed Pensionable Pay if the member was working reduced hours because of ill health.

Increased Pension Entitlement Regulations 2019 – these have been postponed until October.

Civil partnerships for mixed sex couples – A Bill will be introduced in the autumn to extend civil partnerships to mixed sex couples. The Bill will be subject to Parliamentary scrutiny.

10. REGULATIONS UPDATE NORTHERN IRELAND

The Committee noted the key points from paper H.

11. TECHNICAL GROUP UPDATE

The Committee noted the key points from paper I which was presented by KG:

- The Technical Group response to the Exit cap consultation has been submitted
- a working group has been set up to coordinate a response to the 'Local valuation cycle and the management of employer risk' consultation
- HMRC have decided to resolve 'stalemate' cases at the point of retirement, rather than solving them now. These are cases where HMRC records suggest a fund holds GMP liability for an individual, but the records held by the scheme do not. JH noted that there might be implications for the valuation if administering authorities hold potential future liabilities in respect of stalemate cases.

12. TRAINING AND CONFERENCE UPDATE

The Committee noted the key points presented by Karl White [KW]:

- Aggregation training, Insight Residential course and bespoke courses have all received positive feedback
- The introduction of tablets for training rather than paper format is proving successful
- Fundamentals training is now live for booking
- Governance Conference in York in January 2020 is also live for bookings via the LGA events pages.
- Training dates from January onwards will be organised soon.

10. ANY OTHER BUSINESS

ST asked for access to the LGPS for Councillors to be discussed at the next meeting. DR noted that MPs and councillors in Wales and Scotland are offered membership of the LGPS or another public sector scheme. ST noted that the lack of pension provision for councillors in England was a disincentive and had a negative impact on the recruitment and retention of councillors.

11. DATE OF NEXT MEETING

The Committee agree they would like to continue to co-ordinate meetings with the SAB meetings. The next meeting dates are confirmed as:

6 November 2019
3 February 2020
4 May 2020.

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LGPS England and Wales - regulation update

Key points to note

- £95k cap expected to be introduced no sooner than 1 April 2020
- Fair Deal – response to consultation expected autumn 2019
- Exit credits amendment delayed
- The Pensions Ombudsman upholds pension transfer complaint
- Pensions Bill announced in Queen's Speech
- MHCLG publish LGPS statistics
- DfE consults on phased withdrawal from TPS for independent schools
- Member videos launch imminent

Decisions

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

Restricting exit payments in the public sector consultation

The Government first announced plans to cap exit payments in the public sector in 2015. On 10 April 2019 HM Treasury (HMT) launched a 12 week [consultation](#) on draft regulations, guidance and Directions to implement the cap.

HMT received more than 600 responses to that consultation. We expect the Government to publish their response in autumn 2019. HMT plans to introduce the cap no sooner than 1 April 2020.

The consultation documents and the response submitted by the LGA are available to view on the [non-scheme consultations](#) page of www.lgpsregs.org.

Fair deal update

As reported previously, MHCLG's consultation on '[Fair Deal – strengthening pension protection](#)' closed on 4 April 2019. MHCLG are currently reviewing the responses.

To recap, the consultation contains proposals to strengthen the pension protections that apply when an employee of a LGPS employer is compulsorily transferred to the employment of a service provider. The proposed amendments to the LGPS Regulations 2013 would, in most cases, give transferred staff a continued right to membership of the LGPS and introduces the notion of a 'deemed' employer. These changes are intended to bring the LGPS in line with the government's October 2013 [Fair Deal guidance](#) that applies in relation to transfers from central government.

The draft regulations state that 'deemed' employers must have regard to advice issued by SAB in regard to the provision of pension protection to a protected transferee, including the sharing of risk.

We will work closely with MHCLG on this guidance to ensure it provides the necessary level of detail to enable the 'deemed' employer route to work effectively and to co-ordinate timings in relation to the regulations themselves and the DfE guidance for academies.

Work on the guidance will start when MHCLG responds to the consultation, which we understand it plans to do in autumn 2019.

Exit credits update

As reported in previous meetings, 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.

In May 2019, MHCLG consulted on amending this regulation due to unforeseen issues with the payment of exit credits. The consultation proposes allowing the administering authority to take into account how much risk a service provider has borne during the life of the contract when calculating an exit credit. It proposed that where the service provider has borne no risk at all the exit credit payable could be nil.

We understand that MHCLG hoped to be able to lay the legislation to introduce this change in early December 2019 but this will now be delayed due to the upcoming general election.

TPO upholds pension transfer complaint (PO-21489)

The Pensions Ombudsman (TPO) has upheld a complaint against an administering authority that concerns the transfer of LGPS benefits to an occupational scheme. The administering authority has been instructed to re-instate the members' benefits in the LGPS.

In the [determination](#), TPO states the complaint is upheld because the administering authority did not:

- consider correctly whether or not the member had a statutory right to transfer; and
- engage directly with the member regarding concerns it should have had with her transfer request, had it properly assessed it.

The member would only have a statutory right to transfer to an occupational scheme if she was an 'earner'. As the member in this case was not an earner ie she was not working for the receiving scheme's sponsoring employer, the administering authority had a discretion over whether to accept the transfer request.

TPO also states that, in his view, if the administering authority had made contact with the member when she submitted the transfer request to explain the risks of the transfer; that the circumstances of her transfer request were unusual; and that the new scheme was unknown to the council but would not have the same protections as the LGPS, she would, in all likelihood, have changed her mind. He took this view partly because she had opted out of the LGPS for a large proportion of her employment,

which should have indicated to the administering authority that she is not financially savvy.

The member was sent the 'Scorpion' leaflet (which warns about pension scams) and signed a declaration to confirm that she had read it.

Pensions Bill announced in the Queen's Speech

It was announced in the [Queen's Speech](#) on 14 October 2019, that a pension schemes bill is due to be laid in Parliament in the coming weeks. According to [background briefing notes](#), the Bill will strengthen TPR's powers, provide a framework to support pensions dashboards and introduce regulations covering the right to a pension transfer. Topics that are notable because of their absence from the Bill are changes in auto-enrolment rules and any mention of support for the women born in the 1950s who have seen their SPA increase from 60 to 66.

MHCLG publish LGPS statistics

On 16 October 2019, MHCLG published statistics on the LGPS in England and Wales for 2018/19. Below is a summary:

- Total expenditure was £12.7bn; this represents an increase of £0.7bn or 5.7% on 2017/18.
- Total income was £15.1bn; this represents a decrease of £2.3bn or 13.2% on 2017/18.
- Employer contributions were £7.1bn; this is 24.7% down on 2017/18. The decrease is largely due to employers front-loading their contributions in 2017/18 following the 2016 valuation.
- Employee contributions were £2.2bn.
- The market value of the LGPS in England and Wales at the end of March 2019 was £287.2bn; an increase of £16.3bn or 6%.
- Total membership at the end of March 2019 was 5.9 million; 2 million of which are active members, 1.7 million pensioners and 2.2 million former members who have not taken payment of their benefits.

DfE consult on phased withdrawal from TPS for independent schools

On 9 September 2019, the Department for Education launched a [consultation](#) that proposes new options for independent schools who offer membership of the Teachers' Pension Scheme (TPS) to their teaching staff.

Currently, independent schools can opt out of the TPS, which would mean that all members become deferred. The proposal would allow independent schools to continue to offer TPS membership to existing staff, but not to new teachers.

Independent schools will not receive any funding to meet the cost of increased TPS employer contributions from 1 September 2019. This significant increase in cost may mean that more independent schools consider opting out.

Contributions paid to the TPS by independent schools account for approximately 10% of the total scheme contributions. As an unfunded scheme, any exiting school does not have to pay an exit payment. There is a risk that any future increase in the

cost of the liabilities of independent schools who have exited the scheme will be met by local authorities in the future.

The LGA will respond to the consultation before the deadline of 3 November 2019.

Member videos launch imminent

As confirmed previously, we are working with an external company to produce seven member videos for England and Wales. The topics are:

- What is a pension?
- How your pension works
- Looking after your pension
- Protection for you and your family
- Life after work
- Annual allowance
- Lifetime allowance

Both Scotland and Northern Ireland have shown interest in adapting the videos for their use.

Contact officer: Lorraine Bennett
Job title: Senior Pensions Adviser
Phone no: 020 7187 7374
E-mail: lorraine.bennett@local.gov.uk

Scheme Advisory Board – England and Wales

Key points to note

- Good Governance working groups' recommendations
- Draft Responsible Investment guidance for consultation
- TPR cohort report published
- Update on McCloud
- A raft of regulations and guidance still awaited
- SAB recommendations on GAD Section 13.

Decisions

- The Committee is asked to note the contents of the report

Good governance project update

As previously reported, Hymans Robertson were awarded the contract to look into how LGPS functions can be accommodated within the democratically accountable local authority framework. Their findings were presented to the SAB at the July meeting in the form of a report which can be found at <http://www.lgpsboard.org/images/PDF/GGreport.pdf>

In summary, the findings are that a majority of stakeholders favoured an approach to improving governance which:

- is based on outcomes not structures
- includes centralised and updated guidance
- is subject to independent review
- benefits from support for improvement.

Two working groups were formed to take forward the above approach and their recommendations will be reported to the SAB at the November meeting. In summary these are:

1. publication of a new Governance Compliance statement to include an LGPS responsible person, resources allocated to function, scheme of delegations for LGPS decisions, LGPS budget process and outcome measures.
2. outcome measures should use existing indicators where possible
3. updated guidance should be published or signposted/approved by MHCLG
4. guidance should set out minimum requirements of knowledge and understanding for responsible person and decision makers
5. for governance reviews to be biennial and on a consistent basis; they may use external or internal resource
6. the introduction of a LGPS 'Peer Challenge' process

SAB will be asked to approve resources for a further phase of the work to identify the outcome measures to be used.

Responsible Investment guidance

The SAB will be publishing two sets of guidance on the subject of Responsible Investment these being:

- definitions and duties
- options for and examples of best practice.

A draft of the first set of guidance was agreed at the SAB's Investment Governance and Engagement Committee on 14 October. Subject to SAB approval, it will be circulated for public consultation until the end of 2019.

This guidance brings together a raft of definitions, regulatory requirements, statutory guidance, case law and QC opinions in order to clarify the duties which LGPS decision makers should follow in approaching the integration of ESG into their investment strategies. The guidance does not indicate a preferred approach but rather seeks to identify the space within which options can be considered and decisions taken.

In particular the guidance seeks to provide a level of clarification on the complex matter of fiduciary duty.

Work on the second set of guidance will commence early in 2020.

TPR cohort Report

The findings from TPR's engagement with ten LGPS scheme managers were published by the Regulator on the 19 September.

Informal soundings taken from the Regulator's team during the engagement process had suggested that the intended outcome would be largely positive and constructive. There are many elements of the report where this is the case; however, there are other instances where the report does not shy away from citing key risk areas where administration and governance in individual cases has found to be wanting against the standards set out in Code of Practice 14. In these cases, the report helpfully makes reference to examples elsewhere in the scheme where such risks have been identified and mitigated.

The report's executive summary identifies four key improvement areas:

1. key processes and procedures are not being documented with the risk that effective administration is put at risk when key staff leave. There is also a concern that scheme managers are too reliant on controls put in place by the parent local authority, for example, on cyber-risk policies.
2. engagement with some local pension boards is less than ideal and that some boards are meeting too infrequently and relying too much on summary papers rather than full documents.
3. Scheme managers need to be more vigilant when it comes to protecting members from potential fraud and scams.
4. the report identifies considerable variation in the approaches taken by Scheme managers when dealing with the risks surrounding scheme employers such as receiving contributions and employer insolvency.

A full copy of the report can be found at:

<https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/governance-and-administration-risks-in-public-service-pension-schemes-an-engagement-report#pagetop>

Update on the McCloud judgment

Following the decision of the Supreme Court to deny the Government's request for an appeal in the McCloud and Sargeant case, the matter was referred back to the Employment Tribunal (ET) for remedy. Case Management meetings for the ET were scheduled for 7 October (Judges' Schemes) and 13 December (Firefighters).

As a reminder, the case concerns the transitional protections provided to older members of the Judges and Firefighter pension schemes when the schemes were reformed in 2015, as part of the public sector pension scheme changes. On 20 December 2018 the Court of Appeal found that these protections were unlawful on the grounds of age discrimination and could not be justified.

On 15 July 2019 the Chief Secretary to the Treasury announced that the findings in the McCloud case would be applied to all public service pension schemes.

The [cost management page](#) of the SAB [website](#) contains background information to the above, including a [Q&A](#) which is updated as further details emerge.

Although we do not know the timing, cost or structure of the remedy for the LGPS we do know the following:

- any remedy must be upwards and will be backdated to the introduction of the CARE scheme (April 2014)
- it will involve the recreation of final salary service since April 2014 for members in scope
- it will involve the review/recalculation of leavers since April 2014
- the cost will be worked into a recalculation of the Cost Management process, which is currently on hold.

Regulations, guidance and other matters on hold

Due to other matters taking the attention of ministers and/or parliamentary time the following are currently on hold awaiting approval to proceed:

- Public Consultation on revised pooling guidance
- SI for exit credit amendments
- Government response to 4 year valuation consultation
- Government response to Fair Deal consultation
- Government response to £95k Cap consultation
- Recommendations from the simplification project
- Discussions with MHCLG on pensions tax

It is hoped that progress can be made on the above matters early in the new year subject to a general election being called.

SAB recommendations on Section 13

The Government Actuary's Department (GAD) made three recommendations that were addressed to SAB as part of their Section 13 review of the 2016 fund valuations.

Consistency of presentation: An SAB working group has developed a format for a valuation 'dashboard' for inclusion in the 2019 valuation reports. The dashboard contains a number of items which should be able to be compared across LGPS funds on a consistent basis.

Consistency – methodology and assumptions: The group is working towards a draft narrative for valuations that explains the link between each authority's Funding Strategy Statement (FSS), Investment Strategy Statement (ISS) and the discount rate used in the valuation. Essentially to attempt to explain where the discount rate is derived from in relation to how the authority approaches funding and investment.

Consistency – academies: The SAB's academies funding working group developed a range of proposals for DfE to consider including pooling of academies with the fund authority. However at the time of this report no further progress had been made or is anticipated.

Contact officer: Jeff Houston
Job title: Head of Pensions
Phone no: 020 7187 7346
E-mail: jeff.houston@local.gov.uk

Regulation Update Scotland 2019

1. Regulations - The Local Government Pension Scheme (Scotland) Pensions Amendment (Increased Pension Entitlement) Regulations 2019

1.1 In 2008/2009 Guaranteed Minimum Pension (GMP) - related overpayments across the public service schemes were identified and Scottish Ministers chose to allow the pension in payment to remain unadjusted for affected pensioners in the Police, Firefighter and Local Government Pension schemes.

1.2 Scottish Ministers decided that a similar approach should be taken for any GMP-related overpayments that arise from the current GMP reconciliation exercise, which required all schemes were to reconcile their GMP's with those held on HMRC's records by December 2018. These regulations provide for a new scheme award known as an Increased Pension Entitlement (IPE) which reflects the GMP-related overpayment. Pensions currently in payment will remain unadjusted.

1.3 It is intended that these regulations will be signed on the 21 November 2019 laid on 25 November and in force from January 2020.

2. Section 13 of the Public Service Pensions Act 2013

2.1 As required by Section 13 of the 2013 Act, Scottish Ministers appointed GAD to report on the 2017 valuations completed by actuaries acting for the 11 pension funds in Scotland. The Section 13 analysis assesses whether the four main aims [compliance, consistency, solvency and long term cost effectiveness] have been achieved. GAD will present their report to the Scheme Advisory Board on the 30 October 2019.

3. Statutory valuations

3.1 HMT Directions have recommended a shift to quadrennial statutory valuations for LGPS, in line with the unfunded schemes, after the 2020 valuation for the Scottish LGPS. Scottish Ministers will shortly be consulting fund authorities on whether fund valuations in Scotland should similarly align. Initial views are to be sought from the Scottish LGPSAB on the 30 October.

4. Third Sector Cessations

4.1 Each of the 11 Pension Funds in Scotland has a range of large and small employers. The larger employers i.e. Councils, have strong covenants with tax raising powers but smaller employers, some of which are charities, have weaker covenants and therefore considered a higher risk and have to pay higher

contributions. This however varies between funds which have a range of different approaches, with some funds allowing a greater degree of flexibility than others.

4.2 Scottish Ministers previously made changes to the Scottish Local Government Pension Scheme 2014 Regulations to allow fund authorities more flexibility when dealing with cessations for third sector employers. Scottish Ministers have now formally asked the LGPSAB (Scotland) to convene a working group to discuss the issues for third sector employers and explore whether draft guidance could be developed by the SAB to address the apparent differences in the treatment of employers in different funds and ensure a fair, consistent and transparent approach to cessation issues in the Scottish LGPS.

4.3 The secretariat agreed to take forward work already started by Spence & Partners, ICAS and representatives of the Lothian and Strathclyde Pension Funds and report back at the next SAB meeting on 29th January 2020.

Contact: kimberly.linge@gov.scot or rodny.macleod@gov.scot

Regulation Update Northern Ireland 2019

1. Background

- 1.1 Public Service pension regulations are a devolved matter for the Northern Ireland Assembly. Regulations for the Local Government Pension Scheme (LGPS) in Northern Ireland are made by the Department for Communities.
- 1.2 The Northern Ireland Assembly made its own version of the [Public Service Pensions Act \(Northern Ireland\) 2014](#).

2. LGPS Regulations

- 2.1 On 23 October 2019 the Department for Communities made the [Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2019](#). The key change is to implement the outcome of the Brewster case and formally delete the requirement to nominate a cohabiting partner. Other minor technical or administrative amendments to improve the regulations include the following provisions:
 - Allow payment of death benefits after two years
 - Removes the requirement that APC factors are gender specific
 - Confirms that APP can be based on notional pay if the calculated APP figure is materially higher or lower than normal pay
 - Allows NILGOSC, with the Department's approval, to vary the pre-set exit date during a period of deferral of an exit valuation
 - Allows the Actuary to vary an employer's contributions between valuations if there has been a relevant change in its circumstances e.g. secured a guarantee
 - Reinstates the regulation that states an employer determines which of an employee's emoluments are pensionable
 - Allows NILGOSC to receive returns from an employer at regular periods of less than one year
 - Allows NILGOSC to offer Voluntary Scheme Pays

3. Governance

- 3.1 The NI LGPS Scheme Advisory Board met on 11 October 2019. It now has a website which can be found at <https://www.communities-ni.gov.uk/articles/local-government-pension-scheme-northern-ireland>.
- 3.2 The Trade Union side is considering legal action around two particular aspects of Cost Cap and McCloud. It believes that the intention to apply the remedy for the McCloud case first before and then recalculating the Cost Cap cost is contrary to the legislation. In other words the TU side believe that the full Cost Cap cost (i.e. 3.2% in NI) should be met by employers and then the full cost of the McCloud remedy (i.e. 1.8% in NI).
- 3.3 In addition the TU side believe that the decision taken by Government Departments in Northern Ireland to 'pause' the Cost Cap was not legal in the absence of ministers and the NI Assembly.

Contact: David Murphy
Position: CEO, NILGOSC
E-mail: david.murphy@nilgosc.org.uk

Phone no: 0345 319 7320
Twitter: @DMurphy_NILGOSC

Technical Group – update

Background

The National Technical Group is made up of representatives from LGPS administering authorities in England, Wales, Scotland and Northern Ireland. Its purpose is to represent the views of LGPS administering authorities in relation to the direction of pension and other areas of government policy.

Update from September 2019 Technical Group meeting

The ever increasing complexity of the scheme means that administering authorities must retain, understand and apply regulations which were in force many years ago. There appeared nationally a requirement to consolidate the regulations into an on-line guide which covers in detail all aspects of the scheme including overriding legislation and case law. The Technical Group and subsequently regional Pension Officer Groups (POG) have had a demonstration of a product which would provide a 'one-stop shop' for administering authorities and assist in improving skills, knowledge and understanding. In order for the LGA to pursue this on behalf of Technical Group, each fund was required to sign an 'Undertaking in Principle' which was scheduled to be issued by each POG's Technical Group representative, unfortunately, not all funds were issued with the documentation and therefore, the decision was deferred to the December 2019 meeting. In addition, to provide further clarification on issues which were raised at the meeting, Jeff Houston provided a clarifying email to standing members of the group.

Technical Group and software suppliers were informed of the potential change to the data for active scheme member annual benefit statements.

GMP Reconciliation exercise continues at each administering authority post December 2018. Whilst HMRC commenced replying to outstanding queries in March 2019. The majority of funds continued to have a number of 'Stalemate Cases' which remain outstanding. It was resolved that where there is no trace of the person, under GDPR all records must be deleted. For the remaining cases, no action is to be taken until the pensioner reaches pensionable age at which point they will be resolved on an individual basis.

Standing members confirmed they were seeking advice in respect of the Equitable Life vote and updating scheme members.

An update was provided in respect of the following consultations:

- exit payment cap – HMT intend to implement this policy and also have statute in place by April 2020.
- local valuation cycle and management of employer risk – MHCLG have received 279 responses and it is anticipated that they will publish their response in the autumn.
- Fair deal – MHCLG continue to work on the policy and a further update will be provided at the December meeting.
- an update on statutory guidance for the calculation of survivor benefits will be discussed at the December meeting.

Contact: Kevin Gerard

Job title: Pensions Manager – Dyfed Pension Fund

Phone number: 01267 224157

E-mail: KGerard@carmarthenshire.gov.uk