

**Local Government Pensions Committee
Technical Group**

**Minutes of the meeting held on 5 June 2015 at
the offices of Hymans Robertson, One London Wall,
London EC2Y 5EA**

Present

M Hopwood (Chairman)	North East
B Claxton	London
R Smyth	London
G McLellan	East Midlands
I Howe	East Midlands
A Hyde	Shrewsbury
J Caiazzo	Shrewsbury
Z Kee	Northern Ireland
T O'Connor	South West
A Cheffey	South West
L Miller	South Wales
K Gerard	South Wales
D Goodwin	Secretary
C Lewis-Smith	Southern
G Chapman	North East
L Savage	South East
J Smith	South East
E Savage	Scotland

In Attendance

P Kateley	Heywood Limited
D Friend	Civica
J Duckham	AON Hewitt Limited
C Carruthers	Capita
A Allen	Barnett Waddingham
N Thomas	Mercers
I Colvin	Hymans Robertson
J Davies	PriceWaterhouseCoopers

DCLG

L Jones

LGA

T Edwards
J Houston

1. Apologies

Apologies were received from the following:-

L Downer	Southern
D Kanaris	AON Hewitt Ltd

The Chairman welcomed 2 new members to the group, Louise Savage who is replacing Alan Piper as a representative from the South East and Erin Savage who is the new representative for Scotland. He also welcomed Joel Duckham to the group, he was attending in place of Daniel Kanaris as a representative from AON Hewitt Limited.

2. Update on the Tell us once facility

Maureen Thompson from DWP and Mark Henkells from Atos gave an interesting update on what the current situation is with regard to the Tell us once facility.

The TUO service is currently being used by 92% local authorities across the UK which covers 89% of the population¹. It is expected that the remaining 8% will voluntarily sign up in due course, else it could become mandatory to do so.

It is still optional for citizens reporting deaths to use TUO.

Where a citizen does agree to use TUO, the TUO system engages with the LGPS NI database. If a match between an NI Number on the LGPS NI database and an NI Number on the TUO system occurs the relevant LGPS administering authority (or administering authorities where there is a match in more than one fund) would be notified via the Canopy Secure Messaging Service (CSMS) that data relating to a notification of a death of one of their members is waiting for them.

The administering authority would access that data (using their own secure log-in details).

Administering authorities accessing a notification of death do not have to then ask the next of kin/person dealing with the estate for a death certificate.

The group requested technical details that can be given to IT departments to explain what is needed and how it will work. It was agreed that this will be sent as soon as possible.

Maureen explained that training will be given before the system goes live and that there will also be a telephone forum where people can ask questions.

The following public service pension schemes are in favour of the system and wish to progress further:

- *NHS England and Wales*
- *My Civil Service Pension*
- *Veterans UK*
- *Local Government Pension Scheme*
- *Scottish Public Pensions (including)*
 - *Teachers*
 - *NHS*
 - *Police*
 - *Fire*

The security of the data has been confirmed and a funding model has been approved by the Treasury. The DWP have agreed to sign a contract for the development of the system but letters of intent have been sent out to the public

¹ UK – 375 local authorities are live on TUO (figures at May 2015). In England there are 353 local authorities of which 326 are live. 27 English authorities are not currently live including, Adur, Arun, Barrow-in-Furness, Brighton and Hove, Chichester District, Crawley, Croydon, East Sussex, Eastbourne, Hammersmith and Fulham, Harrow, Hastings, Hillingdon, Horsham District, Hounslow, Lewes, Liverpool, Manchester, Medway, Mid Sussex, Portsmouth, Rother, Salford, Sheffield, Wealden, West Sussex and Worthing. In Scotland there are 32 local Authorities of which 27 (84%) are live. 5 Scottish authorities are not currently live including, Glasgow City, Highland, North Lanarkshire, Orkney Islands and Renfrewshire. All 22 Welsh authorities take part in TUO.

service pension schemes wishing to participate confirm that they will pay their share of the development costs.

Jeff stated that he still needed signed “confirmations of commitment” from funds as the LGA will be paying the LGPS share of the development costs upfront and recovering the money via the LGPC subscription and he needs to ensure that a majority of Funds are in favour. A suggestion was made that recovery should be made across the board regardless of whether or not an Authority agreed. This was endorsed by the group.

3. Agenda item

Discussion as to whether all funds are likely to sign up for the Tell us Once offer given that LGPC is being asked to sign a letter of intent to commit to a spend of £121,000 spread across the participating LGPS funds. This was covered under agenda item 2.

4. GMP reconciliation/contracted out reconciliation – presentation by Equiniti followed by a general discussion of the issues

Duncan Watson explained what Equiniti was all about and gave information about the business. The company has had experience in winding up companies and sorting out problems of GMPs. He mentioned that the letter being sent out in 2018 explaining that a person has contracted out employment could prove to generate a large number of grievances from members of the public. Duncan was asked how the company would deal with the issue of reconciliation. He explained that these would be a database comparison between the HMRC records and the Local Authority records. Until this was done the size of the problem would be unknown. The company has an automated system which is as efficient as possible but they are currently seeing a 50% query rate and it may be that HMRC calculations are incorrect.

It will be necessary to advise HMRC of possible discrepancies as they will need to supply resource to make their own investigations.

In due course it will be necessary to decide, whether if mistakes have been made, how they will be dealt with. The company have a three phase approach:

Phase 1 – match data from NICO against administration data – are there any issues?

Phase 2 – Any issues must be addressed. Tackle what needs doing looking at the riskiest first. Report on all the issues and what should be done and how. Go back to NICO with batches of cases with similar problems.

Phase 3 – Rectification and recalculation.

Duncan explained that the cost of dealing with difficult cases would be £100 an hour. Industry estimate for the total cost of the exercise range between £20 and £40 per scheme member.

If Authorities were interested in taking up Equiniti's services there would initially be a presentation to show how they work.

Duncan explained that the London Borough of Hackney had used the services of their company regarding this issue and providing they were in agreement he was willing to circulate the report that had initially been given to Hackney under Phase 1. It was agreed that the group would look at the report and discuss the issues.

[Postscript: a copy of the Hackney report has since been e-mailed to all administering authorities.]

Linda and Terry have had meetings with Treasury and it is clear that, although there is no legal obligation to undertake the reconciliation exercise, Authorities are 'duty bound' to do so. If they have not already done so administering authorities should sign up to obtain the contracted-out data from HMRC as the longer it is left, the shorter will be the timescale for undertaking the reconciliation (which has to be completed by October 2018. The last date for signing up is March 2016.

Estimates of costs of the reconciliation exercise have been supplied to HM Treasury (up to £100 million across the public service pension schemes, compared to a saving for DWP of not maintaining their current systems of only £6 million a year).

A HM Treasury GMP Mini-Group is looking at the policy decisions that will need to be taken and to make recommendation to MOCOP for sign off by Ministers. These include:

1. Should we reconcile only pre 97 GMPs or should we reconcile post 97 contracted-out service dates too (as this is purely dates)?

Reasons to reconcile post 97 contracted-out dates too are:

- a) HMRC records indicate that a member was contracted out between a and b. They want the dates verified because it will impact on the foundation amount of the single tier state pension (which will be reduced on account of periods of contracted-out employment). However, unless the person's NI category or NI contributions/NIable pay is incorrect, or a CEP or trivial commutation has been paid which HMRC have not recorded, there would be no error on the amount of deduction to the single tier state pension. Provided the contracted-out period and the NI category/NI contributions/NIable pay are correct it is immaterial which scheme the person was in during the period of contracted-out employment (but see 2 below).
- b) If the letter HMRC sends out in December 2018 says something along the lines of "You were contracted out of the LGPS in Fund A during the period from a to b and Fund A, as a condition of being contracted-out,

has guaranteed to pay you a pension” that will cause problems if we have not verified that the person was in contracted-out service in Fund A e.g. it may be the person was in the TPS and not in the LGPS.

2. What tolerance levels should be applied (nationally) e.g. if difference in GMP figures is less than the lower of £2 p.w. or 5% of the pre 97 pension and contracted-out dates are, say less than 2 months different (because, for example, the member was contracted out from March but didn't get paid until April, or the member left in March but received a further payment in April).

With regard to the GMP, if the difference is within the tolerance level, do we:

- a) Do we accept HMRC value and replace on our records for actives, deferreds and pensioners (and recalculate pensions, sorting out any over/underpayments that have occurred)?
- b) Only do so for actives and deferreds but not pensioners (meaning that there would be no over/underpayments to calculate but the member would get a letter from HMRC in December 2018 quoting a different GMP to the one we will be holding on the pensioner record)
- c) Not correct any

If (a) is adopted, and for cases where the GMP difference is outside tolerance levels administering authorities should, if the HMRC figure is agreed as being the correct figure, replace it on our records for actives, deferreds and pensioners (recalculating pensions in payment and pay the correct pension going forward, paying any resulting underpayment to the pensioner). With regard to any overpayment of pension an agreement is to be sought on whether:

- a) we should seek recovery of any overpayment, or
- b) all overpayments should be written off.

An agreement is being sought with HMRC that any overpayment that is not recovered should not be an unauthorised payment.

3. Who is going to pick up PI on GMPs post 2016?

The last proposal was that:

- a) for those who attain SPA prior to 6 April 2016 the position would remain the same as now i.e. no increase on pre 88 GMP and up to 3% on post 88 GMP (unless AP<GMP). HMRC have stated that they will continue to issue AP<GMP notifications (where appropriate) for these cases.
- b) for those who attain SPA between 6 April 2016 and 5 April 2018 we would be responsible for paying full PI and
- c) for those who attain SPA post 5 April 2018 the position would remain the same as now i.e. no increase on pre 88 GMP and up to 3% on

post 88 GMP, except there would no longer be any AP<GMP notifications.

An alternative would be that Funds pick up full PI for:

- i) those who attain SPA post 5 April 2018 – cost £0.7 billion
- ii) those who attain SPA post 5 April 2016 – cost £0.9 billion
- iii) in all cases (including those who attained SPA pre 6 April 2016) – cost £2.9 billion.

However, we would need some assurances that we would be able to recoup this cost.

HM Treasury are seeking Counsel's opinion on whether members have a legitimate expectation of full PI (because prior to 2016 they would have been entitled to full PI on the GMP either via the LGPS and/or via the state pension).

A decision on who will be responsible for PI from April 2016 is needed urgently, in order that PI programmes can be re-written and tested, and it is hoped that a decision will be made by Ministers before the 2015 summer recess.

4. With regard to the timescale for completion of the reconciliation exercise this needs to be finished before the end of 2018. A possible option is for the DWP/HMRC to extend the deadline (but they currently have no plans to do so).

Terry felt that he was unable to say on behalf of the funds what constituted reasonable time scales for each Fund to complete various milestones within the reconciliation exercise and the group agreed.

5. LGPS concerns regarding the exercise can be summarised as:
 - a) resourcing the work within the pensions section
 - b) impact on day to day work within the pensions section
 - c) cost
 - d) HMRC's ability to deal with the volume of queries
 - e) the 'down time' period between sending queries to HMRC and getting a response
 - f) need for a standard approach to tolerance levels and write-offs.
6. Even when the reconciliation exercise has been completed that is not the end of the story. The next stage will be GMP Equalisation (to ensure members of one sex are not worse off than members of the opposite sex). HM Treasury have obtained Counsel's on how equalisation could be achieved. Counsel has suggested three options to HM Treasury, only two of which would be unlikely to be subject to any future challenge.

5. AVC issues

With regard to the questions raised in Ian's email the following points were raised.

- a) With regard to a transfer of AVCs under Freedom and Choice, is it OK to leave the transfer process to the AVC provider if they are happy to undertake the administration.

The Technical Group considered it was OK to pass as much of the administration to the AVC provider as the provider was willing to undertake.

- b) What happens if an existing AVC payer (limited to 50% contribution in/100% tax free lump sum out) now cease their AVC and start a new one under the new arrangements (in order to have 100% contribution in/100% tax free lump sum out)?

The point made here was that it is not certain that it is a new contract/arrangement. The Group thought it could be argued that it was a new contract/arrangement but it was pointed out that the member might, in the end, be disadvantaged if HM Treasury subsequently impose a 25% tax free lump sum limit on post 14 AVC contracts). Also, many of the members interested in this would be unlikely to be able to contribute 100% due to the £40,000 annual allowance limit.

- c) If a member has any benefits in a money purchase (defined contribution) pension arrangement which they have flexibly accessed on or after 6th April 2015 then:

- i) in the year in which they flexibly access their money purchase benefits:

- if their contributions to a money purchase (defined contribution) scheme do not exceed £10,000, their pension savings will be tested against the normal £40,000 annual allowance figure (as described in the "standard annual allowance calculation" referred to below), or
- if their contributions to a money purchase (defined contribution) scheme do exceed £10,000, the money purchase contributions they paid before flexibly accessing their money purchase benefits will, together with value of their defined benefit savings for the year, be measured against an annual allowance figure of £30,000 and the money purchase contributions paid after flexibly accessing their money purchase benefits will be measured against an annual allowance figure of £10,000. However, if the "standard annual allowance calculation" referred to below would produce a higher annual allowance tax charge, then that figure will be used instead.

- ii) in subsequent years:

- if their contributions to a money purchase (defined contribution) scheme do not exceed £10,000, their pension savings will be tested against the normal £40,000 annual allowance figure, or

- if their contributions to a money purchase (defined contribution) scheme do exceed £10,000, their annual allowance charge will be based on any money purchase (defined contribution) savings for the year in excess of £10,000, plus the value of any defined benefit savings in excess of £30,000. It will not be possible to carry forward any unused money purchase (defined contribution) annual allowance to offset against the £10,000.

Of course, in order to know whether to use the annual allowance standard rules or the annual allowance special rules, it is necessary for an administering authority to know whether the member has flexibly accessed benefits from another scheme.

[HMRC Newsletter 66](#) sets out the procedure that schemes which allow flexible access to benefits and members who flexibly access their benefits must follow. It says:

Pension Flexibility: Reporting Requirements

To ensure that members and scheme administrators know when a member is subject to the Money Purchase Annual Allowance (MPAA), a number of new reporting requirements are being introduced.

Where a member first flexibly accesses their pension savings, the scheme administrator must provide the member with a statement confirming the date the first payment occurred and setting out what they must do. They will be required to do this within 31 days of the flexible access occurring. If the member (or another scheme administrator) has already informed the scheme administrator that they have flexibly accessed another scheme then the scheme administrator does not need to provide the member with a statement.

Members then need to tell any other pension scheme that they are an active member of, that they have flexibly accessed their pension savings, but excluding any DB only schemes. This notification must be provided within 91 days of receiving the statement or within 91 days of becoming an active member, whichever is the later.*

[*Note: the LGPS is not a DB only scheme because it also contains a DC element i.e. the AVC provision within the scheme is a DC arrangement and so the member must provide the above notification to any LGPS Fund in which they are a member].

When making a transfer, if a transferring scheme has been notified by a member that they also have flexibly accessed rights elsewhere or the member has flexibly accessed their rights in that scheme, the scheme administrator will be required to notify the receiving scheme of the date they believe the first flexible access occurred. This notification must be made within 31 days of the transfer, or if later, within 31 days from the date the scheme administrator became aware that the member had flexibly accessed their pension rights.

Where a scheme receives a transfer for a member who has already flexibly accessed their rights there is no requirement for the new scheme administrator to provide the member with a statement. In addition, there is no requirement for the scheme administrator to notify HMRC.

There will also be a new requirement for scheme administrators to provide individuals who are subject to the MPAA with a pensions savings statement if their money purchase savings, which will include savings in certain hybrid arrangements, exceed £10,000 in that particular scheme.

When a member uses funds from a flexi-access drawdown fund to buy an annuity or scheme pension from an insurance company, the scheme administrator will be required to inform the insurance company providing that scheme pension or lifetime annuity. This extends the information that must already be provided to insurance companies where payments are made from drawdown funds, to include flexibly accessed funds.

The Technical Group felt that, although it is the member's (or sending scheme's) responsibility to notify the administering authority that they have flexibly accessed their savings (and there is no responsibility of the administering authority or the AVC provider if the member does not give such a notification), there are likely to be some members (or sending schemes) who will not pass on the relevant information. The Technical Group suggested that it might be helpful if the Annual AVC statement included a message to remind people paying AVCs that if they have flexibly drawn benefits from another scheme they must let their LGPS administering know.

Terry agreed to contact the Pru.

iii) Do we need to agree a minimum level of draw-down of the AVC pot?

The point was made that this is not a facility we offer in our scheme so it is irrelevant.

6. APC contracts

At the LGPC Technical Group meeting held 12 December 2014 a discussion took place about how APC contracts to buy "lost" pension should be dealt with if the member does not complete payment of the contract. The view taken at that meeting was that if the member does not complete payment of the APC contract it should be treated as a debt. This would mean that the full amount of "lost" pension the member elected to purchase would be credited to the member's pension account when the member left the scheme and the member would have an outstanding amount of contributions still to pay which would be dealt with as an outstanding debt to the Pension Fund Administering Authority. However, when this was discussed with DCLG they were not keen to introduce a "debt" provision into the Regulations. The matter was, therefore, referred back to the Technical Group. At their meeting on 5 June 2015 the Technical Group decided that where payment of APCs to purchase "lost" pension had not

been completed the member should be credited with the amount of "lost" pension they had bought at the date they ceased paying the APCs. For example, if a person had a period of absence of 15 days resulting in "lost" pension of £17.01 which they were covering by payment of APCs and left having paid £101.45 out of a total of £243.48 they were due to pay, they would be credited with an amount of CARE pension of $\text{£}17.01 \times \text{£}101.45 / \text{£}243.48 = \text{£}7.09$. Furthermore, if they have any pre 1 April 2014 membership of the LGPS they will, for the purposes of:

- a) the final year's pay calculation,
- b) the underpin, and
- c) the 85 year rule

be treated as having paid for that proportion of the period of absence they were covering (calculated as the number of days absence x amount of APCs paid / total amount of APCs due to be paid). It was also agreed that:

- a) where the above calculation results in a part day being purchased, the part day will always be rounded up, and
- b) the period purchased will always count from the beginning of the period of absence.

Using the example above, the period purchased would be $15 \times 101.45 / 243.48 = 6.25$ days which would be rounded up to 7 days and the person would be deemed to have bought the first 7 days of the period of absence.

7. LGPC update

a) LGPC staffing

Con will be moving back from spending part of his time on the Scheme Advisory Board to LGPC full time.

Mary Lambe who left is being replaced by Lorraine Bennett on 20 July. Terry and Tim are taking flexible retirement from 1 September 2015 when both will reduce their hours by 50%.

- b) The LGPC Secretariat is still pursuing the question of whether the 3.4% NI increase from April 2016 can be recouped in some way.
- c) With regard to club transfers LGPC will continue to press for the LGPS to come out of the Club Scheme. The LGPC has been asked to make a case to the other public service pension schemes as to why we should be allowed to come out of the Club.
- d) The LGPC Secretariat met with DCLG, GAD and the pensions administration software providers on 28th May to discuss outstanding issues with the GAD guidance. A Bulletin will be issued in due course.
- e) There has been no decision yet on how the Individual Protection 2015 (reduction in LTA to £1 million) will work.

- f) NI database
Six funds have been testing the system and no major problems have occurred. One file submission failed but after investigation this was found to be a time-out issue with the sending Fund's IT system, not a problem with the database's ability to receive large files.

It is hoped the NI database should be live in either July or August. Administering authorities will be asked to sign a data sharing agreement between themselves, the LGA and South Yorkshire Pensions Authority.

8. Freedom of choice

The issues were discussed and there were differences of opinion however, the following were agreed:

- a) Issue 1
Should we seek an amendment to the Regulations to permit members with deferred benefits who are either
- i) in receipt of a pension, or
 - ii) in active membership in a new period of membership, or
 - iii) within 12 months of their NPA, or have attained their NPA

to have the right to request a CETV for the deferred benefit (i.e. go beyond the minimum requirements of the Pension Schemes Act 1993)?

No. The Technical Group considered there were no compelling reasons to go beyond the Act.

[Postscript: if the transfer is to a Club scheme it is considered that we would be required, under the terms of the Club rules, to pay a transfer in all of the above cases where the member is under NPA.]

- b) Issue 2
Should we seek an amendment to the Regulations to permit members with an immediate entitlement to a pension on ill health, redundancy or efficiency retirement to request a CETV instead.

No. It was agreed to leave the Regulations as they were.

The LGPS Regulations require that such members **must** take immediate payment of their pension benefits.

Although section 93 of the Pension Schemes Act 1993 only debars entitlement to a CETV if payment of a pension in respect of any of the benefits has begun, the Technical Group concluded that in such cases the payment of the pension has, technically, "begun" and, therefore, such members are not entitled to a CETV. The Group took the view that it was immaterial that a physical payment of pension may not have been paid before the member makes a request for a CETV. Payment of the pension

has “begun” and the fact that a physical payment had not yet been made due to the timing of the pensions payroll processing or due to the member not completing the pension application form is irrelevant.

c) Issue 3

Should we seek an amendment to the 1995 Regulations, the 1997 Regulations and the Benefits Regulations 2007 to allow members with deferred benefits under those regulations to be able to elect to draw benefits from age 55 with the need for the (former) employer’s consent but with an actuarial reduction to:

- i) the later of age 60 or the member’s Critical Retirement Age where the member is subject to the 85 year rule, or
- ii) Normal Pension Age, where the member is not subject to the 85 year rule if the benefits are drawn before age 60?

It was agreed that we should seek an amendment to the Regulations and Terry will take this forward.

9. Minutes of the previous meeting held on 13 March 2015

These were agreed as a correct record.

10. Matters arising

There were none.

11. Any other business

a) It was agreed that with regard to aggregation of service we would wish the Regulations to be amended to provide that deferred benefits would only be aggregated upon receipt of a positive election to do so (rather than an election to not aggregate). Deferred refund should continue to be automatically aggregated. Lynda explained that lawyers had been instructed to this effect and it will be included in the next statutory instrument.

c) Terry mentioned that if Authorities received a self-assessment tax forms for the fund (which could result in fines for non-completion) they should contact him and he will get HMRC to rescind the self-assessment tax return (as LGPS Funds are not required to complete one).

10. Date and venue of next meeting

11 September 2015 at the offices of Barnett-Waddingham.