

**Local Government Pensions Committee
Technical Group**

**Minutes of the meeting held on 9 March 2018 at
the offices of PWC
Hays Galleria, London, SE1 2RD
Updated following Technical Group meeting held on
8 June 2018 (see agenda item 2).**

LGPC Technical Group

Present		In Attendance	
Key Gerard (Chair)	South Wales	Nikki Cooper	Civica
Zena Kee	Northern Ireland	Catherine Pearce	AON
Ian Howe	East Midlands	Anne Marie Allen	Barnett Waddingham
John Smith	South East	Jon Slater	Equiniti
Richard Smyth	London	Justine Davies	PWC
Gary Chapman	North East	Ian Colvin	Hymans
Erin Savage	Scotland	Paul Kateley	Heywood
Gary McLellan	East Midlands		
Alan South	South West	Jayne Wiberg	LGA
Heather Currie	North East		
Louise Savage	South East		
Claire Lewis-Smith	Southern		
Karen Gibson	South West		
Steve Moseley	North West		
Debbie Sharp	North West		
Rachel Abbey	Southern	Kelly Scotford	Secretary

1. Apologies

John Smith	South East
Claire Lewis-Smith	Southern
Craig Martin	Environment Agency
Neil Mason	London
Jeremy Hughes	MHCLG
Jonathon Perera	Mercer

2. LGPC Update

See attached update – [Appendix A](#)

Group discussion covering the LGPC update

2.1 High Court judgement in the case of Elmes v Essex

It was confirmed in [bulletin 167](#) (February 2018) that “MHCLG are waiting for the Judge’s reasoning to be issued, before deciding what the judgment means for the LGPS regulations. Once issued, it will be for MHCLG to take a legal view on the implications”.

The LGPC update (appendix A) mentioned that “Administering authorities will now need to decide how they to go about tracing any eligible cohabitants who would have been entitled to a partner’s pension but for the nomination requirement (where the

member left the LGPS on or after 1 April 2008 and before 1 April 2014 and died before 1 April 2014)".

Following a discussion by the group some members confirmed that their administering authorities had identified the affected cases, though the majority of the group are waiting for guidance from MHCLG. At this stage, it is unclear as to when the Judge's reasoning will be issued in order for MHCLG to take a legal view on the implications.

2.2 McDonald (Respondent) v Newton or McDonald (Appellant) (Scotland) - Supreme Court Ruling – Pensioner on Divorce

In [bulletin 166](#) (February 2018) the LGPC Secretariat included an article under the LGPS Scotland covering the above Supreme Court Ruling. It was brought to the attention of the group that this article applies equally to benefits held in the LGPS in Scotland, LGPS England and Wales and the LGPS Northern Ireland, where the divorce is made under Scottish law. Accordingly, an update will be provided within bulletin 168 (March 2018).

2.3 GDPR

It was noted by the group that the following documents regarding GDPR had been published by the LGPC Secretariat:

- a member FAQ and
- Template privacy statements'

The LGA also confirmed that the Secretariat are waiting on a 'memorandum of understanding' document for employers, to be produced by Squires Patton Boggs (lawyers used by the LGA). The aim is for this document to be published by the end of March 2018.

2.4 LGPS technical queries – central email address

Further to the article in [bulletin 167](#) (February 2018), the LGA mentioned to the group that it is particularly important that this article is followed by administering authorities in order to ensure that any queries are addressed in a timely manner.

2.5 The Pensions Advisory Service dispute function moves to the Pensions Ombudsman

Following the article in [bulletin 167](#) (February 2018) confirming that "*The Secretariat has been notified that the Pensions Advisory Service's (TPAS) dispute resolution function is moving to The Pensions Ombudsman (TPO). The move includes the transfer of the TPAS dispute resolution team and volunteer network of over 350 advisers. The transfer is expected to be completed by 1 March 2018*". TPO confirmed that there will be better signposting of the move by TPAS to TPO.

2.6 LGPS consultation published by MHCLG (as was DCLG) on 27 May 2016

The LGA confirmed it is expected that the amendment regulations published under the above consultation would be issued over the summer 2018 containing technical amendments only (i.e. excluding Exit Cap and Fair Deal as these are been dealt with separately as confirmed in [bulletin 153](#)).

3. Consultation outcome on indexation and equalisation of GMP in public service pension schemes

Background

See attached paper by the LGA - [Appendix B](#)

Discussion

JW discussed the content of the paper with the group, highlighting the two issues, noting that the group would be kept informed as to the outcome.

4. GMP Technical Working Group that took place on 28 February 2018

Background:

See attached paper by the LGA - [Appendix C](#)

Discussion

The LGA discussed the content of the paper with the group.

5. Contracted-out reconciliation – rectification (Stage 3)

Background:

See email from LGA - [Appendix D](#)

Outcome

Following a discussion with the group, it was recommended (if not already occurring) that contracted-out reconciliation should be placed on the agenda of POGs until completion. Members of each POG should share their decisions/processes with their fellow administering authorities concerning communication, write offs, underpayments etc. to try and maintain a consistent approach. Where there are any difficulties the Technical Group representative of the POG should raise this with members of Technical Group for further discussion.

6. Contracted Out Reconciliation - Stalemate

Background:

During the course of contracted-out reconciliation it has come to light that there are cases where despite repeated communication HMRC and the administering authority do not agree. The most problematic of which, appear to be those cases for which the administering authority cannot find any liability, though HMRC are insistent that the liability lies with the administering authority.

Latest position:

The LGA confirmed that, a guaranteed minimum pension (GMP) is not a scheme benefit, it is merely the guaranteed minimum that a scheme must pay. The LGPS is a defined benefits scheme and as such, the benefits are based on a period of membership accrual and pay, following which the level of those benefits are assessed against the value of the GMP. Therefore, in order to pay a scheme benefit the scheme must have the necessary accurate data (prescribed within the scheme regulations and be in compliance with the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [SI 2014/3138]) with which to calculate the defined benefits. HMT are aware of this problem and will consider this further in due course.

7. HMRC Notification for Survivors

Background:

See email from Jon Slater - [Appendix E](#)

Outcome:

HMRC have confirmed that they will continue to send the same AP<GMP or AP>=GMP notifications, in respect of individuals who reach SPa prior to 6 April 2016, that they were already issuing. It seems that administering authorities are concerned that, as a result of a change due to the contracted-out reconciliation exercise, HMRC are not sending the relevant AP<GMP or AP>=GMP notifications that now apply to the updated circumstances. LGA confirmed that they understand this is an issue and have already raised the matter with HMRC, unfortunately, to date there is no further update. .

8. **Re Use of Public Sector Information Request**

Background:

See email from Chris Hurst - [Appendix F](#)

Outcome:

This query relates to a request made under [The Re-use of Public Sector Information Regulations 2015 \[SI 2015/1415\]](#). After discussion the group concluded that this form of request had been received by other administering authorities, though it was mostly in respect of investment documentation. It transpired that the majority of administering authorities are happy for the information to be used, though it should only be used in its current format. However, the LGPS (Scotland) would seem to treat such requests under FOI, though one such request is currently with the legal department of an administering authority to review.

9. **Minutes of previous meeting held on 12 December 2017**

All agreed as correct

10. **Matters arising**

None

11. **AOB**

- **GDPR – Data Sharing – Mortality Screening**

Background

See email from Rachel Abbey - [Appendix G](#)

Outcome

Following a discussion by the group, the group concluded that providing there is a contractual data sharing agreement there should not be an issue with mortality screening by an external company, as the external company would be a data processor. If the company is not willing to sign a data sharing agreement and accept the increased liability under GDPR then it would seem that they will not be able to be appointed by an administering authority to undertake mortality screening. Mortality screening is one of a number of appropriate tools that an administering authority can use to determine their legal obligation, as to whether or not they are paying correct benefits. It would be helpful if any administering authority, who has already made changes to their contractual position concerning mortality screening and an external provider, could share their experience with the group (by way of an update from the POG representative). Norfolk are currently trying to incorporate Mortality Screening into their national LGPS frameworks and the group understand that this issue has already been raised.

- **Performance Measuring**

Background

See [Appendix H](#)

Outcome

Following a discussion by the group, it was agreed that under the [OPS \(Disclosure of Information\) Regulations 2013 \[SI 2013/2734\]](#) the clock does not stop until the event is completed (i.e. it is the end to end timescale). The clock should only stop for in house KPIs. Where administering authorities discover any disclosure 'fails' they should evidence the reason for the fail when disclosing the statistics to local pension boards.

- **Academy outsourcing of catering**

Where an Academy outsources a catering function, the group agreed that the outsourcing should come under New Fair Deal because Academies come under New fair Deal, however, the LGPS regulations continue to apply and as such a deferred benefits would be awarded.

- **TPR Conditional data**

A member of the group queried as to when SAB E&W would confirm as to what the requirements are for the TPR Conditional data. Following the meeting, it was confirmed that SAB E&W are setting up a working group with GAD/TPR to agree this template and more details will be forthcoming in due course.

- **Retirement**

The Chair presented Gary Chapman with a card and gift in recognition of his contribution not only to the technical group but in a number of previous additional roles he had held in the LGPS nationally.

12. Date and venue of next meeting

Friday 8 June 2018	Hymans
Friday 28 September 2018	AON
Tuesday 11 December 2018	Barnet Waddingham