LGPC Update – Technical Group - 9 March 2018

Scheme Advisory Board - England & Wales
- SAB tier 3 employer project
- Academies project
- 50/50 section awareness project

LGPS England & Wales
- AVC risk warnings
- Cabinet reshuffle
- Contracted-out reconciliation exercise – February 2018 survey update
- Contracted-out reconciliation – pensioner overpayments
- Contribution bands for 2017/18
- High Court judgement in the case of Elmes v Essex
- The Sub-national Transport Body (Transport for the North) Regulations 2018 [SI 2018/103]

Scheme Advisory Board – Scotland
- February 2018 – bulletin

LGPS Scotland
- Draft LGPS (Scotland) Regulations 2018 – LGPC response
- Scottish rate of Income Tax
- SPPA Circular 1/2018 – overpayments arising from the end of contracted-out reconciliation exercise

HMT
- Consultation outcome on indexation and equalisation of GMP in public service pension schemes

HMRC
- Countdown bulletin 31
- Countdown bulletin 32
- New Pensions Online service - User research
- Pension Schemes Newsletter 94
- Pension Schemes Newsletter 95

DWP
- DWP publish a report on the Automatic Enrolment review 2017
- Review of automatic enrolment earnings triggers and qualifying earnings

Other News and Updates
- Communications Working Group
- GDPR
- Carillion
- LGPS technical queries – central email address
- McDonald (Respondent) v Newton or McDonald (Appellant) (Scotland) - Supreme Court Ruling – Pensioner on Divorce
- Pension Dashboard update
- Public service pensions indexation and CARE revaluation 2018 – written statement
- Tell Us Once – password resets
- The Finance Act 2004 (Standard Lifetime Allowance) Regulations 2018 [SI 2018/206]

- The Pensions Advisory Service dispute function moves to the Pensions Ombudsman
- The Pensions Regulator (TPR) – Managing service providers

Documents added/withdrawn from http://www.lgpsregs.org/index.php and/or http://www.scotlgpsregs.org/index.php

- Guides and sample documents added/updated
- Guides withdrawn
- Legal opinions
- Bulletins and Circulars
- Technical group minutes
- Communications working group

Scheme advisory board (SAB) – England & Wales

SAB tier 3 employer project

As reported previously the SAB for the LGPS in England and Wales has appointed Aon Hewitt to help them in their review of Tier 3 employers in the LGPS.

On 27th November 2017 three surveys were circulated for completion by administering authorities and tier three employers and members. These surveys closed on 31st January 2018, the results are currently being analysed by Aon Hewitt who will be providing an interim report to the SAB on 26th February 2018.

For information, 55 completed administering authority surveys were received, along with 297 employer surveys and 2,617 member surveys.

Academies project

The two working groups for academies (administration and funding) met on 26th January 2018. The administration working group agreed that a standard template for data consistency and 'kite mark' for payroll providers would help improve administration efficiency.

Initial discussions of the funding working group explored the concept of a single contribution rate for academy 'pools' or Master Academy Trusts (MATS).

Further meetings of the working groups are scheduled on a monthly basis.

50/50 section awareness project

The member survey that ran between April and July 2017 indicates that the low take up rate of the 50/50 section could be attributed to poor communication. The SAB are, therefore, of the view that improving the level of awareness amongst the scheme's membership, in particular, optants out and those considering opting out of the scheme should result in an increase in the take up rate and in turn, the prospect of the scheme savings assumed from the Treasury's assumption on take up being realised.

Treasury assumed when the new scheme was designed that 10% of scheme members earning less than £21k would opt into the 50/50 section. The cost of future service of 19.5% was partially based on that assumption. However, in reality the take up rate is not exclusive to those earning less than £21k and the Board's actuarial adviser has suggested that the same scheme cost savings would be achieved if there was a take up rate of 4-5% across the scheme.

At the SAB meeting on 26th February 2018 the SAB will consider proposals for an awareness project and how that might be taken forward.

LGPS – England & Wales

AVC Risk Warnings

The LGPC Secretariat have been informed that Equitable Life have recently written to administering authorities to advise that they will no longer be able to disinvest members AVC funds unless they confirm that the member has been given a risk warning in accordance with FCA handbook, COBS 19.7 Retirement Risk Warnings.

For the LGPS, the requirement to provide a risk warning is prescribed by regulation 19A of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [2013/2734] rather than the FCA handbook. The duty falls to the trustees or managers of the scheme i.e. the administering authority when a member is provided, or has been provided, with certain information about how they can access their AVC in addition to an application form or another method of access, which enables the member to take payment of their AVC. The duty does not fall to the AVC provider.

The LGPC Secretariat in conjunction with the Communications Working Group are currently working on a new Freedom and Choice AVC guide which contains template letters and a template risk warning for funds to use to fulfil the disclosure requirements. This guide is due to published in March 2018. However, if any administering authorities require access to the draft risk warning urgently before this date please contact Lorraine Bennett.

Cabinet reshuffle

In the recent cabinet reshuffle the Department for Communities and Local Government (DCLG) has been renamed as the Ministry of Housing, Communities and Local Government (MHCLG). It should be recognised that housing was always included in the brief, but just not recognised in its name.

In addition, Marcus Jones MP is no longer the minister responsible for the LGPS, he has been replaced by Rishi Sunak who is the MP for Richmond (Yorkshire).

Contracted-out reconciliation exercise – February 2018 survey update

On 8 February 2018, the Secretariat issued a survey to administering authorities in England & Wales. The aim of the survey was to determine what stage administering authorities are at with their contracted-out reconciliation exercise.

We would like to express our thanks to the administering authorities who responded. As mentioned in our survey, where we received no response we have been obliged to record that as a 'stage 0 – have yet to start' response.

The results of the survey shows that administering authorities are at different stages in respect of their individual types of members (e.g. active, deferred and pensioners), so there will be some middle ground. The table overleaf shows ‘worst’ and ‘best’ case scenarios i.e. if an administering authority is at:

- stage 4 for pensioners and stage 2 for actives and deferred – then the ‘worst’ case scenario shows the administering authority at stage 2, or
- stage 4 for pensioners and stage 2 for actives and deferred – then the ‘best’ case scenario shows the administering authority at stage 4.

Clearly many administering authorities are somewhere in between, for example, an administering authority may have completed their pensioner member reconciliation, be part way through their deferred member reconciliation, though may only have just begun their active member reconciliation.

Stage	Description of Stage	No. of administering authorities at this stage	
		Worst case scenario	Best case scenario
Stage 0	Administering authority has yet to start the exercise	8	4
Stage 1	Compare administering authority data with HMRC data	20	13
Stage 2	Review data inconsistencies, raise with HMRC, agree outcome	51	42
Stage 3	Rectification	9	25
Stage 4	Reconciliation complete	0	4

Contracted-out reconciliation – pensioner overpayments

In bulletin 159 we reported that the LGPC secretariat had circulated an information note to funds in England and Wales to assist administering authorities in determining what action to take following the discovery of an overpayment of pension during the course of the contracted-out reconciliation exercise. The document represented the views of the Secretariat and should not be treated as legal advice nor in any way a complete and authoritative statement of the law.

It is for each LGPS fund and each unfunded public service scheme, to decide upon the discovery of an overpayment that arose during the course of the contracted-out reconciliation exercise, whether or not to reclaim / write off such amounts. It may be of interest to funds to know that, although not widely publicised, the Civil Service Pension Scheme Accounting Officer has taken the decision to write-off such over-payments and the decision is in the public domain, as part of the scheme accounts at the bottom of page 28.

Contribution bands for 2017/18

As confirmed in bulletin 163, on 17 October 2017, the Office for National Statistics (ONS) announced that the Consumer Prices Index (CPI) rate of inflation for September 2017 was 3.0%. Government policy in recent years has been to base both pensions increase under the Pensions (Increase) Act 1971 and revaluation of pension accounts under section 9 of the Public Service Pensions Act 2013 on the rate of CPI for September of the previous year.

Further to the article later within this bulletin titled 'Public service pensions indexation and CARE revaluation 2018' we expect the Pensions Increase (Review) Order to be published in March 2018 confirming that public service pensions will be increased from 9 April 2018 by 3%, in line with the annual increase in CPI up to September 2017.

Accordingly, the table below sets out the draft contribution bands, which will be effective from 1 April 2018. These are based on the pay bands for 2017/18 as increased by the September 2017 CPI figure of 3%, with the result rounded down to the nearest £100.

Draft Contribution table 2018/19			
Band	**Actual pensionable pay for an employment**	**Contribution rate for that employment**	
		Main section	50/50 section
1	Up to £14,100	5.5%	2.75%
2	£14,101 to £22,000	5.8%	2.9%
3	£22,001 to £35,700	6.5%	3.25%
4	£35,701 to £45,200	6.8%	3.4%
5	£45,201 to £63,100	8.5%	4.25%
6	£63,101 to £89,400	9.9%	4.95%
7	£89,401 to £105,200	10.5%	5.25%
8	£105,201 to £157,800	11.4%	5.7%
9	£157,801 or more	12.5%	6.25%

Note:
On 20 February 2018, the Secretariat sent an email to administering authorities containing a draft contribution table for 2018/19. The table was revised and reissued on 21 February 2018 and altogether placed on hold on 22 February 2018. On 26 February 2018, the draft contribution table contained within this bulletin was agreed and published.
The reason for the inconsistency was due to differing interpretations of regulation 9(4) and (5) of the LGPS 2013 Regulations. One interpretation is that the appropriate increase is applied to the pay figures in the previous year's table and then rounded down to the nearest £100. The alternative interpretation is that a cumulative pensions increase figure is applied to the 2014 pay bands as set out in regulation 9(2) and then rounded down to the nearest £100. We sought clarification from MHCLG who have confirmed that they are content that previous guidance issued on the same subject, but in relation to the 2008 Scheme, should stand i.e. that the pay bands should be revalued by applying the appropriate increase to the previous year's pay bands and rounding down to the nearest £100.

High Court judgement in the case of Elmes v Essex

The case of Nicola Elmes v Essex County Council was heard in the High Court on 18 January 2018. Mr Justice Walker declared that:

"*The requirement to nominate a person under regulations 24 and 25 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 is incompatible with Article 1 of the first Protocol to, and Art 14 of, the European Convention on Human Rights and must therefore be dis-applied*".

The LGPC Secretariat understand that the outcome of this case effectively removes the requirement for a nomination form to be in place in order for cohabitees to be eligible for a partner's pension in the LGPS. It should be noted that the requirement to nominate a partner only existed for deaths between 1 April 2008 and 31 March 2014 for the LGPS in England and Wales. The necessity to nominate a co-habiting partner was removed for all deaths that occurred on or after 1 April 2014.

Administering authorities will now need to decide how they to go about tracing any eligible cohabitees 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).

MHCLG have confirmed that they 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 Sub-national Transport Body (Transport for the North) Regulations 2018 [SI 2018/103]

The above regulations were made on 22 January 2018 and come into force on 1 April 2018. Regulation 19(6) amends schedules 2 and 3 of the LGPS Regulations 2013 and inserts Transport for the North as a new designating scheme employer.

Scheme advisory board (SAB) – Scotland

February 2018 – bulletin

In February 2018, the SAB issued a news bulletin containing items covering:

- Structure review - SAB officers are drafting a consultation paper and timetable for the next SAB meeting in April.
- Audit Scotland overview report on local government pension funds - a high level look at funds based on their financial accounts
- Governance review - main actions for the SLGPS involved strengthening training and communications, particularly with pension boards at fund level
- Annual report - statistical analysis is being completed and the report should be published in February 2018.
- Regulations - final regulations will be presented to Parliament in April
- Pension developments – general overview covering the FCA's Investor Disclosure Working Group (IDWG), Automatic Enrolment and Investment decisions to fight climate change.

LGPS - Scotland

Draft LGPS (Scotland) Regulations 2018 – LGPC response

In bulletin 164, we reported that SPPA commenced a consultation on a new set of main scheme regulations for the LGPS in Scotland, the draft LGPS (Scotland) Regulations 2018. The closing date for the consultation was initially 1 January 2018 though this was later extended to Monday 15 January 2018. The LGPC responded to this consultation on 11 January 2018.

Scottish rate of Income Tax

On 14th December, the Scottish Government published the following proposals for income tax rates and bands in 2018/19 in the Draft Scottish Budget.

Bands	Band name	Rates (%)
Over £11,850*-£13,850	Starter Rate	19
Over £13,850-£24,000	Basic Rate	20
Over £24,000-£44,273	Intermediate Rate	21
Over £44,273-£150,000**	Higher Rate	41
Above £150,000**	Top Rate	46

* Assumes person is in receipt of the Standard UK Personal Allowance

** Personal Allowance is reduced by £1 for every £2 earned over £100,000

Scottish income tax is only payable by Scottish taxpayers. Scottish taxpayers are those who have their main place of residence in Scotland.

SPPA Circular 1/2018 – overpayments arising from the end of contracted-out reconciliation exercise

On the 8 February 2018, SPPA published circular 1/2018 and a short update on their web-site. The purpose of this circular is to:

a) confirm how Guaranteed Minimum Pension (GMP) related overpayments which arise from the end of contracted-out reconciliation exercise should be managed going forward and
b) provide information that the Accountable Officer may wish to take into account when deciding on how accrued GMP related overpayments are managed.

Ongoing overpayments

Scottish Ministers have decided that the approach to be taken, concerning overpayments arising from the end of contracted-out reconciliation exercise, should be in keeping with a similar exercise that took place in 2008/2009:

- any LGPS pension in payment affected by this exercise should not be reduced,
- the identified GMP related overpayment should be converted into an 'increased pension entitlement' (IPE) allowing the pension to continue at its existing level (the IPE will be an authorised payment for tax

purposes because the scheme rules are been amended – regulation 14(5) Registered Pension Scheme (Authorised Payments) Regulations 2009 [SI 2009/1171][1]),

- SPPA will commence work on drafting legislation to support this approach and in the meantime an IPE should be awarded administratively pending the finalisation and coming into force of the Regulations, and
- Administering authorities should keep a note of each IPE awarded and the amount involved, as SPPA will need to reconcile the number and level of awards made.

Accrued overpayments
The responsibility for deciding what action should be taken on the accrued overpayments arising from the end of contracted-out reconciliation exercise rests with the administering authority's Accountable Officer (AO). SPPA Circular 1/2018 sets out what the AO may wish to consider when deciding on the recoverability of such overpayments, extracted in part from the content of the information note[2] issued by the LGPC Secretariat, to administering authorities in England & Wales on 9 June 2017. In addition, the circular expands on the LGPC information note[2] by referring to the:

- Scottish Government Finance Manual (SGFM), although this manual does not directly apply to LGPS Funds, its content may be used for guidance, and
- Prescription and Limitation (Scotland) Act 1973 ("the 1973 Act")

HMT

Consultation outcome on indexation and equalisation of GMP in public service pension schemes
On 22 January 2018, HMT published its response to the consultation on the indexation and equalisation of GMP in public service pension schemes.

A summary of this response is set out below:

"*This consultation was about how government should continue to meet its obligations to index (price protect) and equalise (make equal payments to men and women) the pension entitlements of a certain group of public servants with an occupational pension known as a GMP.*

This consultation received 62 responses, broadly in favour of the government's objectives in continuing to ensure the GMP continues to be indexed and equalised. The government has been implementing an "interim solution" between 6 April 2016 and 5 December 2018. The outcome of this consultation is that this solution will be

1 [SI 2009/1171] - 14(5) "A payment is within this paragraph if it is made while the scheme administrator is in the process of amending the rules of the scheme so that such payments or payments in such amounts will be permitted by the pension rules or the pension death benefit rules (as the case may be), provided the scheme administrator has not taken an unreasonable amount of time to amend the rules".

2 The information note represents the views of the Secretariat and should not be treated as legal advice nor in any way a complete and authoritative statement of the law. Readers cannot place any legal reliance on the content and may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the LGPC Secretariat or the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Note.

extended for a further two years and four months. This will cover those members of public service schemes with a GMP who reach state Pension Age on or after 6 December 2018 and before 6 April 2021.

During this period, the government will investigate the possibility of an alternative long-term methodology, known as "conversion"".

In bulletin 163 we reported that we are currently in the process of producing a scheme administrator guide to assist funds in how to apply increases to pensions in payment where the member holds a GMP.

The outcome of the consultation, will be reflected in a revised Ministerial Direction under Section 59A (2) of the Social Security Pensions Act 1975. We are currently working with HMT to fully understand the implications and in order to do so, we need the revised Ministerial Direction to be published by HMT. Once this has occurred we will be in a position to, shortly thereafter, publish our scheme administrator guide (unless any unforeseen changes are included within the revised Ministerial Direction).

In bulletin 166 we confirmed that the outcome of the consultation may have an effect on the calculation of CETV In/Out and CETV on Divorce. Section 11 of the Secretary of State guidance title 'Individual incoming and outgoing transfers' dated 8 April 2016 and the 'Non Club GMP adjustment addendum' dated 19 April 2016 issued by Scottish Ministers, both contain adjustments to the CETV where the member has an entitlement to a GMP. These adjustments apply, in prescribed circumstances, where the members SPa falls between 6 April 2016 and 5 December 2018 inclusive (The existing 'interim period').

We understand that similar adjustments, covering those members whose SPa falls between 6 April 2018 and 5 April 2021 inclusive, will be contained in additional addendums to be issued by the Secretary of State and Scottish Ministers. These addendums will be issued shortly though we cannot confirm the date of issue nor their effective date.

HMRC

Countdown bulletin 31

On 2 January 2018, HMRC published countdown bulletin 31 including articles on:

- Scheme Cessation Guidelines
- Type 7 Query Process
- Limited Rate Premiums (LRPs) and Contribution Equivalent Premiums (CEPs) refunds
- Business as Usual CEP's
- Not In Scheme (NIS) - CEP Automation Solution
- Member Types

Of particular interest was the article covering Limited Rate Premiums (LRPs) and Contribution Equivalent Premiums (CEPs) refunds. This confirmed that the "Department for Work and Pensions (DWP) Policy and HMRC are working together looking at current processes and legislation to get a workable solution for post 5 April 2016 transfers".

Regulation 14(1)(b) of The Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 [SI 2015/1677] confirms that HMRC may refund a CEP where the earners accrued rights have been transferred to another registered pension scheme. However, due to a change in HMRC processes, the practical means of refunding a CEP is proving problematic. Unless notified otherwise, there is no change to either a CETV calculation or a Club transfer out calculation (i.e. there should be no deduction of the CEP from the value of the transfer payment). LGPS scheme administrators should continue to calculate and pay such payments in accordance with the current Secretary of State guidance or Guidance issued by Scottish Ministers, and the Club memorandum.

Addendum: see Countdown bulletin 32 for an update concerning the reclaim of a CEP.

Countdown bulletin 32

On 23 February 2018, HMRC published countdown bulletin 32 including articles on:

- Termination and transfer notices – countdown bulletin 29 confirms that with the introduction of the new State Pension (nSP) from 6 April 2016, pension scheme administrators (PSAs) no longer need to submit termination and transfer notices where the period of contracted-out ends or transfers after 5 April 2016.
- Contributions Equivalent Premium (CEP) or Limited Revaluation Premium (LRP) refunds due to post 5 April 2016 Transfers – further to our article in bulletin 166 this latest countdown bulletin confirms that following advice from DWP Policy, HM Revenue and Customs (HMRC) are introducing a process to allow PSAs to claim a CEP or LRP refund where a post 5 April 2016 transfer of membership or liability has taken place. Details of how to reclaim a CEP are set out within countdown bulletin 32.
- Matched members not showing on SRS refreshed output
- Secondary type 5 queries
- Data limit for query templates sent for an automated solution

New Pensions Online service - User research

On 16 February 2018, the Secretariat forwarded an email to all administering authorities from HMRC regarding the new pension's online service. In pension schemes newsletter 89 HMRC explained how, from April 2018, they will move pension scheme registration and administration onto a new digital platform – the 'Pensions Online Digital Service' so that they can improve the service for pension scheme administrators. They also explained how their user researcher, Cay Green, is looking to speak with different pension scheme administrators and pension practitioners as part of their ongoing user research.

HMRC would like some more public sector schemes to be involved in this research. If an administering authority is interested in participating in such user research, please contact Cay Green.

Pension Schemes Newsletter 94

On 28 December 2017, HMRC published pension schemes newsletter 94 including articles on:

- Relief at source for Scottish Income Tax (this guidance does not apply to the LGPS because the LGPS operates tax relief on a ‘net pay’ basis),
- Annual Allowance – a reminder for scheme administrators to prompt their members who have exceeded the annual allowance for 2016 to 2017, to declare this on their Self-Assessment tax return (the deadline for submitting this is 31 January 2018),
- Reporting multiple small pots payments through Real Time Information (RTI) – This relates to the payment of multiple Trivial Commutation sums. HMRC are aware that some pension scheme administrators continue to have problems when reporting multiple small pots payments, because RTI matches on the first part of the payroll ID reference can treat some reports of multiple small pots payments as duplicates. The guidance in paragraph 2.2.5 of the CWG2 has been amended to say that when a scheme administrator reports these types of payments they should enter a different end date for each payment,
- Simplifying pension language – HMRC are looking at how they might make their language more user friendly and they would like to speak to scheme administrators and industry representative bodies,
- New pensions online service - updating scheme administrator details – this article concerns scheme administrators who have not logged onto the Pensions Schemes Online service since April 2015, to remind them to go online and update their details.

Pension Schemes Newsletter 95

On 31 January 2018, HMRC published pension schemes newsletter 95 including articles on:

- pension flexibility statistics
- relief at source for Scottish Income Tax
- updates to form APSS146E
- new pensions online service
- information powers and Schedule 36 of the Finance act 2008
- reporting of non-taxable death benefits
- change to postal address.

In particular, in relation to the new pensions online service, administering authorities need to confirm that their details are correct and up to date on the existing online service. Also, in readiness to migrate pension schemes to the new service, HMRC have started to look at pension scheme accounting and have identified some outstanding AFT charges on the existing service. Consequently, they will soon be writing to scheme administrators setting out any outstanding AFT charges.

DWP

DWP publish report on Automatic enrolment review

On 18th December DWP published the report: Automatic enrolment review 2017: Maintaining the momentum about how workplace pensions will meet the needs of individuals and employers while remaining fair, affordable and sustainable for future generations. Proposals include:

- reducing the lower age limit for auto enrolment from 22 to age 18. This change will simplify workforce assessment for employers: all eligible workers would benefit from auto enrolment from age 18 whoever employs them.
- changing the framework for auto enrolment so that pension contributions would be calculated from the first pound earned, rather than from the lower earnings limit, currently set at £5,876.
- the earnings trigger for automatic enrolment will remain at £10,000 in 2018/19, subject to annual review.
- continuing to monitor and evaluate the impact of increasing contributions and to carry out further analysis to inform a longer-term debate on the right balance between statutory contribution rates and voluntary additional retirement savings.
- to work to implement the government's manifesto commitment by testing targeted interventions – including through the opportunity of Making Tax Digital – to identify the most effective options to increase pension saving amongst self-employed people.
- to support the ability of individuals to engage with, and have a sense of greater personal ownership for, their workplace pension saving so that they can plan for the future.

The government's ambition is to implement the changes to the auto enrolment framework in the mid-2020s, subject to discussions with stakeholders during 2018/19. The government recognises that while the changes being proposed will bring future financial benefits for individuals and the UK's longer term fiscal position, there are also significant cost consequences which will need to be shared between individual savers, employers and government. All parties will need time to plan for this, being mindful of the broader economic climate.

Review of automatic enrolment earnings triggers and qualifying earnings

On 18th December, DWP published its review of the earnings trigger and qualifying earnings band for automatic enrolment. As mentioned in the article above, the existing threshold of £10,000 will not change for 2018/19. The decision reflects the key balance that needs to be met between affordability for employers and individuals and the policy objective of giving those who are most able to save the opportunity to accrue a meaningful level of retirement savings.

DWP also confirmed that the lower earnings limit will be going up from £5,876 to £6,032 and the upper earnings limit will be going up from £45,000 to £46,350 for the 2018/19 year.

Other News and Updates

Carillion

Following the demise of Carillion in January 2018, we understand that:

- Only a very small number of LGPS funds (3) had direct exposure to Carillion on the asset side. We estimate their total losses to be in region of £3m to £4.5m or around 0.03% to 0.05% of the total assets of those funds. This compares with the 21% growth in asset values seen by LGPS funds in 2017.
- A small number of LGPS funds (13) had exposure on the liability side to Carillion as a scheme employer. However, early communications with administering authorities and fund actuaries indicate that in the majority of

cases, Carillion was fully funded and therefore we do not expect to see local authorities having to pick up any significant deficits as a result of this event.

Carillion was an admitted body to the LGPS in relation to each contract under the terms of Schedule 2 Part 3 of the Local Government Pension Scheme Regulations 2013. Essentially this means that unless some form of bond or indemnity is in place, which can be called upon by the administering authority, the pension's liabilities of Carillion including the meeting of any strain costs for redundancy pensions, would be met by the Scheme Employer (the outsourcing employer) party to the admission agreement.

Communications working group

Minutes of the communications working group meeting held on 30 January 2018 have now been uploaded to www.lgpsregs.org on the communications working group page. The minutes include details of what the group are currently working on including the production of a member guide to AVCs and a member FAQ on GDPR – both documents are due to be published shortly.

GDPR

The Secretariat, on behalf of LGPS Administering Authorities, have commissioned Squire Patton Boggs to produce the following three documents set out below. We expect these documents to be published in March 2018.

1. 'Template privacy statements' specifically for LGPS administering authorities that administering authorities can use /adapt:
    a. A detailed privacy notice – setting out the information to be provided under articles 13 and 14 of the GDPR. This notice will take into account that most likely, the data will be obtained directly from both the employer and the member.
    b. A summary privacy notice for use in newsletters / annual benefit statements etc. – this will link to the detailed privacy notice that would be held on the administering authority's website or made available upon request.

2. A memorandum of understanding document for employers - the aim of this document is to set out that participating employers in the LGPS are able to share data with the LGPS administering authority without a data sharing agreement being in place (i.e. that there is no legal requirement for employers to have a data sharing agreement with LGPS administering authorities as they are both data controllers). The document will quote the relevant statutory references to inform an employer's data protection officer and legal department of the legal position, to head off any issues with employers uncertain about what data they can / cannot share with LGPS administering authorities.

LGPS technical queries – central email address

Since September 2015, the Secretariat has operated a central technical query email address that stakeholders can use to raise technical queries. This is mentioned at the beginning of the 'Pensions Section Contact Details' of each bulletin.

We have noticed that users, when raising technical queries, are increasingly emailing LGPS team members directly. The central email address is monitored by members of the LGPS pension's team. Thus, when members of the team are engaged in other areas of LGPS work, other team members can pick up any technical queries.

We would be grateful if you could refrain from emailing team members directly with technical queries and instead use the central email address of ***query.lgps@local.gov.uk***. Thereafter, one of the team's LGPS pension advisers will get back to you as soon as possible.

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

The following update applies to divorces made under Scottish law, and can therefore, apply to benefits held in the LGPS in Scotland, England and Wales or Northern Ireland.

Paragraph 2.3.1 in the guidance issued by Scottish Ministers titled 'Pension Sharing Following Divorce Calculation of Cash Equivalents' dated 23 May 2011, confirms that "*Regulation 10 of the Family Law (Scotland) Act 1985 states that for divorce cases in Scotland, only the pension rights built up since the beginning of the marriage will be taken into account up to the earlier of the date of separation and the date of divorce when the court has granted the decree absolute*".

We understand this has been interpreted as meaning, as per regulation 4 of The Divorce etc. (Pensions) (Scotland) Regulations 2000 [SSI 2000/112], that the CETV for Divorce (factor 'A') is adjusted to reflect the period of time for which the member was married during active membership (factor 'B'), by the total period of time for which the member was an active member (factor 'C').

For example, a member who:

- joined the scheme on 1 April 1990, left active membership of the scheme on 31 March 2000, and took payment of their benefits from 1 April 2000, and
- was married on 1 April 1998 and divorced on 31 March 2017.

The CETV (factor 'A') would be adjusted by 2/10 (factors 'B'/'C')

It has recently come to light that a judgement made on 26 July 2017 by the Supreme court in the case of McDonald (Respondent) v Newton or McDonald (Appellant) (Scotland), brought to light a dispute between the parties that relates to the definition of factor 'C' which consequently affects factor 'B'.

Mr McDonald argued that the court should apportion the value of his pension rights by reference only to the period in which he was an "active member" of the scheme, which is the period during which he was making contributions to the scheme. This would reflect the current process adopted by LGPS funds set out in the above example.

Conversely, Mrs McDonald argued that the cash equivalent transfer value should be apportioned by reference to the period of Mr Macdonald's membership of the scheme, both when in pensionable employment and also when drawing a pension. If we use the example above this would mean that the CETV (factor 'A') would be adjusted by 19/27 (factors 'B'/'C'), which is a considerably higher proportion that 2/10. Mrs McDonald's appeal was initially dismissed by an extra division of the Inner House.

However, the Supreme Court unanimously allowed Mrs McDonald's appeal and subsequently agreed that the period of membership covered by factor 'C' should be interpreted as "*the period of the person's membership of the pension arrangement, whether or not contributions are being made in that period*" citing various reasons for doing so.

Clearly, this ruling sets a precedent and indicates a move away from current practice with regards to deferred and pensioner members.

Pension Dashboard Update

On 13 February 2018, the LGPC Secretariat attended an informal discussion with DWP and other public service pension schemes about the Pensions Dashboard. DWP are in the process of conducting a feasibility project to explore the options for delivering the pensions dashboard as part of this work they are seeking the input and views from stakeholders.

DWP have undertaken user research, the results of which show a consensus around there being a preference for a single dashboard with a single point of access along with a preference for the dashboard to be government led.

Results from the feasibility study will be published at the end of March 2018.

Public service pensions indexation and CARE revaluation 2018 – written statement

On 21 February 2018 in a written statement by the Chief Secretary to the Treasury to the House of Commons, it was confirmed that:

- Public Service pensions will be increased from 9 April 2018 by 3%, in line with the annual increase in CPI up to September 2017, except for those public service pensions that have been in payment for less than a year, which will receive a pro-rata increase (the Secretariat issued by email the PI multiplier tables on 26 February 2018 which are due to be published on HMT's website).
- CARE accrual in the new public service pension schemes that increase in line with prices, will increase in line with the annual increase in CPI up to September 2017 by 3%, plus any increase to the index rate adjustment specified in scheme regulations on 1 April 2018.

Accordingly, we expect the Pensions Increase (Review) Order and the Public Service Pension Schemes Revaluation Order to be published in March 2018.

Tell Us Once – Password resets

DWP have recently noticed an increase in the number of requests for password resets from users of the Canopy Digital Connect (CDC) service, which is the platform that they use to send you Tell Us Once notifications.

They have asked us to remind administering authorities that you should have at least two admin users who are able to reset passwords within the administering authority to avoid having to contact Tell Us One. Utilising your admin users to reset passwords will save time, as when a user notifies Tell Us Once that they need a password reset, they then have to contact ATOS who maintain the CDC platform.

This process can often take a few days, hence why using your own admin users is a more efficient process.

If you have any queries on the above please contact Matt Styan
MATT.STYAN@DWP.GSI.GOV.UK

The Finance Act 2004 (Standard Lifetime Allowance) Regulations 2018 [SI 2018/206]

The above regulations were made and come into force on 20 February 2018. The regulations increase the standard lifetime allowance from £1,000,000 to £1,030,000 for 2018/19.

The Pensions Advisory Service dispute function moves to the Pensions Ombudsman

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.

At present customers can approach both TPO and TPAS for help when dealing with a pension complaint. TPAS usually focussed on complaints before the pension scheme's internal dispute resolution procedure (IDRP) had been completed, whilst TPO typically deals with complaints that have been through IDRP.

TPO advise that this transfer of functions will simplify the customer journey. Customers will be able to access all pension dispute resolution, previously handled by two services, whether pre or post IDRP, in one place. Leading to a smoother customer journey and improved complaint handling. TPAS will continue to focus on providing pension information and guidance, and will become an integral part of the new Single Financial Guidance Body.

TPO have requested that all signposting for customers be changed to the following:

- If you have a complaint or dispute with your pension provider concerning your workplace or personal pension arrangements you should contact The Pensions Ombudsman

  Telephone: 0800 917 4487
  Website: www.pensions-ombudsman.org.uk

- If you need information and guidance concerning your pension arrangements contact The Pensions Advisory Service

  Telephone: 0300 123 1047
  Website: www.pensionsadvisoryservice.org.uk

The Pensions Regulator (TPR) – Managing service providers

On the 22 February 2018, TPR published a statement covering the management of service providers. The statement has been published due to the significant recent attention on companies providing outsourced services to government and industry, including pension schemes. It summarises the TPRs expectations of good practice by trustees and scheme managers on the management of service providers, and planning for events, which could have major consequences for pension schemes, including the failure of service providers.

Documents added/withdrawn from:

- England & Wales - http://www.lgpsregs.org/index.php
- Scotland - http://www.scotlgpsregs.org/index.php

Guides and sample documents added / updated

26 January 2018	Employees	Promotional leaflet (E&W only)	Employees	Version 1.4

Guides and sample documents withdrawn

None

Legal opinions

None

Bulletins and Circulars

167	February 2018	Appendix 1 – Tell Us About a Death
166	January 2018	Appendix 1 – TPOS Newsletter
165	December 2018	Appendix 1 - The University of Sunderland vs Drossou Appendix 2 - DWP policy objectives for Dashboard Appendix 3 - Tell Us Once newsletter

Technical group minutes

12 December 2017	Calculation of IP2016 where there is a scheme pays offset, Academies and SAB workstream, Pension Decision Service - JLT, the Pensions Ombudsman, LGA Training, The Pensions Dashboard, Confiscation Order	Minutes Appendix A Appendix B1 Appendix B2 Appendix C Appendix D Appendix E Appendix F Appendix G

15 September 2017	MiFIDII, Brewster, GMP reconciliation, Auto Enrolment and Transitional Delay, GDPR, TUPE and Flexible retirement, Voluntary Scheme Pays	Minutes Appendix

Communications working group

30 January 2018	General Data Protection Regulations (GDPR), the national member website, annual benefit statements, AVCs in relation to Freedom and Choice, AVCs FAQ and the communications work plan for 2018/19.	Minutes	30 January 2018