

LOCAL GOVERNMENT PENSIONS COMMITTEE (LGPC)

Minutes of the NATIONAL LGPS TECHNICAL GROUP meeting Published on 13 March 2019

**Held at the offices of:
Mercer, 1 Tower Place East, Tower Place, London, EC3R 5BU
commencing at 11:00 am on
Friday 8 March 2019**

Attendees

Standing (voting) members of the group		Present / Apologies / Substitute / Absent
Kevin Gerard (Chairman)	Welsh Pension Officer Group (WPOG)	Present
Chris Hurst	Welsh Pension Officer Group (WPOG)	Apologies
Ian Howe (Deputy Chairman)	East Midlands Pension Officer Group (EMPOG)	Apologies
Gary McLellan	East Midlands Pension Officer Group (EMPOG)	Present
Karen Gibson	South West Pension Officer Group (SWPOG)	Present
?	South West Pension Officer Group (SWPOG)	
Claire Lewis-Smith	Southern Area Pension Officer Group (SAPOG)	Present
Clair Chambers	Southern Area Pension Officer Group (SAPOG)	Present
Louise Savage	South Eastern Counties Superannuation Officer Group (SECSOG)	Present
Joel Ellner	South Eastern Counties Superannuation Officer Group (SECSOG)	Present
Richard Smyth	London Pension Officer Group (LPOG)	Present
Neil Mason	London Pension Officer Group (LPOG)	Present
Steven Moseley	Shrewsbury (North West) Pension Officer Group (SPOG)	Present
Debbie Sharp	Shrewsbury (North West) Pension Officer Group (SPOG)	Present
Jason Bailey	North East Pension Officer Forum (NEPOF)	Present
Heather Currie	North East Pension Officer Forum (NEPOF)	Present

Erin Savage	Scottish Pensions Liaison Group (SPLG)	Present
Zena Kee	Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC)	Present
Representative (non-voting) members of the group		
Jeremy Hughes (temporary substitute Robert Ellis)	Ministry of Housing, Communities & Local Government (MHCLG)	Present
Kimberley Linge	Scottish Public Pension Agency (SPPA)	Present
Siobhan Mckelvey	Department for Communities (Northern Ireland)	Present
Jayne Wiberg	Local Government Association (LGA)	Present
Lorraine Bennett	Local Government Association (LGA)	Present
Ad-hoc (non-voting) members of the group		
Paul Kateley	Software supplier - Aquila Heywood	Present
Catherine Carruthers	Software supplier – Capita	Present
Julie Potter	Software supplier – Civica	Present
Jon Slater	Software supplier - Equiniti	Present
Annemarie Allen	Actuarial - Barnett Waddingham	Present
Ian Colvin	Actuarial - Hymans Robertson	Present
Justine Davies	Actuarial – PWC	Present
Catherine Pearce (temporary substitute Craig Payne)	Actuarial – Aon	Present
Nigel Thomas (temporary substitute Jonathon Perera)	Actuarial – Mercer	Present
Kelly Scotford	Secretary	Present

Minutes

Agenda item	Description	Outcome
1	Apologies for absence	To note
2	Minutes of the last meeting held on 11 December 2018	<p>For agreement and to raise any queries</p> <p>a) The minutes of the meeting held on 11 December 2018 were agreed with the exception of a small typo. Andrew McKerns from Hymans surname was spelt incorrectly. This has now been corrected on the published version.</p> <p>b) Aggregation following the cessation of a concurrent employment (item 3(d)) Following on from the discussion that took place at the meeting on 11 December 2018, Jayne Wiberg approach MHCLG on 13 December 2018 to seek a view on how such cases should be applied. MHCLG confirmed on 6 March that “<i>Admin Authorities should follow the regulations as they stand. However would be open to a request for regulatory amendment from LGPC/SAB to bring regs into line with the pre 1/4/14 position, and the Scottish position. Inclusion in a consultation would of course be subject to ministerial approval etc.</i>”</p> <p>Background There is an outstanding regulatory issue, concerning a member who held concurrent employments and who subsequently left one of those employments. The issue covers those cases where the:</p> <ul style="list-style-type: none"> • initial employment began before 1 April 2014 and ceased after that date, and • second employment began on or after 1 April 2014 under regulation 3 of the LGPS Regulations 2013 [SI 2013/2356] <u>and</u> whilst the person was still in the initial employment. <p>England & Wales Regulation 10(8) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] only addresses those cases where both employments commenced before 1 April 2014. Where this is the case, upon leaving active membership in a concurrent employment, upon aggregation with the continuing employment, administrators are required to apply an adjustment to the pre 1-April 2014 final salary membership. However, where</p>

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		<p>the continuing employment is in relation to an employment that commenced on or after 1 April 2014, no such adjustment is required, meaning that the pre-1 April 2014 final salary membership is aggregated on a day-for-day basis.</p> <p>Scotland (including outcome from SPPA) The same issue is also present in the LGPS Scotland and SPPA have confirmed the following policy intent: <i>“Unfortunately it is clear that the regulations do not currently address this scenario correctly. The policy intent is that any pre-1 April 2015 membership should be adjusted when adding it to the membership for <u>a continuing employment</u>. There is no break in service here; therefore we will be revising regulation 10(8).... as suggested by the LGA.</i></p> <p><i>“(8) Where deferred benefits or a deferred refund under paragraph (1) arise from the cessation of a concurrent employment and the member continues as an active member in a continuing employment in which the member became an active member either by virtue of regulation 5(1) of these Regulations (membership of the 2015 Scheme) or by virtue of regulation 3 of the 2014 Regulations (active membership), the formula in regulation 14(4) (concurrent employments) or, as the case may be, regulation 41(4) (rights to return of contributions) of the Administration Regulations must be applied in order to determine the rights the member is entitled to for the purposes of paragraph (2)”. We do intend to amend the regulations as per LGA’s correction list, when the Transitional Regulations are updated, which will be in the New Year”.</i></p> <p>Outcome England & Wales: MHCLG discussed the matter with the group and acknowledged that the outcome of the regulations were an error but were unwilling to give the group a written note of policy intent. Therefore, it was agreed that:</p> <ol style="list-style-type: none"> 1) The National Technical Group will make a recommendation to SAB to change the regulations to reflect the position prior to 1 April 2014 (i.e. upon leaving active membership in a concurrent employment, upon aggregation with the continuing employment, administrators are required to apply an adjustment to the pre 1-April 2014 final salary membership). 2) Until/if such a change is made administering authorities should apply the regulations as they currently stand (i.e. upon leaving active membership in a concurrent employment, upon aggregation with the continuing employment,

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		<p>administrators should not apply an adjustment to the pre 1-April 2014 final salary membership, it should be aggregated on a day for day basis).</p> <p>Postscript: An email was sent by the Chair to Jeff Houston and Bob Holloway on 12 March 2019 requesting the above changes.</p>
3	<p>Presentation – PENTAG (Terry Edwards & Tim Hazlewood)</p> <ul style="list-style-type: none"> on-line guide which covers, in detail, all aspects of the LGPS (past and present) in England and Wales plus overriding legislation, case law, etc. The intention that it should be a one-stop shop for anyone involved in the administration of the LGPS in England and Wales. to gauge whether there would be enough support for the LGPC to subscribe to the product on behalf of all administering authorities (meaning that the price per authority would be considerably less than if authorities wished to subscribe to the product individually). Subscription would be in addition to existing LGPC fees (method of distribution to be determined). 	<p>Group discussion Representatives from PENTAG delivered a presentation demonstrating their on-line LGPS guide. The group appeared receptive to the presentation and raised a number of questions both at the end of the presentation and over lunch with the representatives.</p> <p>Group recommendation The group recommended for attendees to return to their POGs to gauge support for the PENTAG product (on-line guide), with a view to PENTAG delivering presentations locally at the POGs.</p> <p>Following the presentation the LGA confirmed that in order to take this product forward at a national level, the LGA would need a majority (this wasn't defined) to agree to the purchasing of the product on behalf of administering authorities in LGPS England & Wales.</p> <p>The aim would be for the group to make a recommendation at the meeting of the National Technical group on 20 September 2019.</p> <p>The contact details for each chair in England & Wales together with the known (as at today) dates of future POGs were provided to PENTAG for reference.</p> <p>Postscript PENTAG contacted chairs of the POGs on 13 March 2019.</p>
4	<p>LGPC update – Jayne Wiberg (AppA)</p>	<p>To note and raise any queries during the meeting</p> <p>a) Exit credits & 4 year valuation cycle MHCLG confirmed that a consultation covering 'exit credits' and a proposal to move to a '4 year valuation cycle' would be published by the 31 March 2019.</p> <p>b) Discretionary policies The Discretionary policies were revised in February 2019. However, since publication it was noticed that an erroneous mandatory discretion (regulation 31(7A) of the LGPS Regulations 1997 [SI 1997/1612]) had been mistakenly included. Although this discretion is within the LGPS</p>

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		<p>Regulations 1997 it is contradicted by regulation 35(1) which does not allow for the payment of benefits before a member has ceased employment from which they were a member.</p> <p>Action Jayne Wiberg will revise the Discretionary policies at the earliest opportunity.</p> <p>c) Supplementary PI and death grant lump sums A question arose concerning as to whether or not supplementary PI is added to a death grant lump sum?</p> <p>Action Jayne Wiberg will look into this matter further and come back to the group at the next meeting (14 June 2019).</p> <p>d) Pensions Wise and the ‘Money and Pensions Service’ The Financial Guidance and Claims Act (Naming and Consequential Amendments) Regulations 2019 [SI 2019/383] replaces various references to the Pensions Advisory Service in the LGPS regulations with references to the ‘Money and Pensions Service’ (formerly the Single Financial Guidance Body). The SI comes into effect on 6 April 2019 (although the company (i.e. the Money and Pensions Service) is established on 1 April 2019). The single financial guidance body, established under section 1(1) of the 2018 Act, is named the Money and Pensions Service. The SI amends various over-riding legislation (primary and secondary) to replace the SFGB / TPAS with ‘the Money and Pensions Service’.</p> <ul style="list-style-type: none"> • Amends regulation 12(3) of Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 [SI 2001/2954] by replacing TPAS with ‘the Money and Pensions Service’ with effect from 6 April 2019 • Amends regulations 75(3)(e) and 77(3)(d) and (f) of the Local Government Pension Scheme Regulations 2013 [SI 2013/2356] by replacing TPAS with ‘the Money and Pensions Service’ with effect from 6 April 2019 • Amends regulations 85(3)(e) and 87(3)(e) of the Local Government Pension Scheme Regulations (Northern Ireland) 2014 [SR 2014/188] by replacing TPAS with ‘the Money and Pensions Service’ with effect from 6 April 2019 • Amends regulations 70(3)(e) and 72(3)(e) of the Local Government Pension Scheme (Scotland) Regulations 2018 [SSI 2018/141] by replacing TPAS with ‘the Money and Pensions Service’ with effect from 6 April 2019 <p>However, there doesn't appear to be any such</p>

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		<p>equivalent to amend any general references to 'Pensions Wise'.</p> <p>Action Jayne Wiberg will look into this matter further and come back to the group at the next meeting (14 June 2019).</p> <p>e) McCloud and SAB survey re 2019 valuation In bulletin 181 at the end of the Q&A there was a question for administering authorities regarding the approach to the 2019 valuation. Administering authorities were asked to provide their view on how the 2019 valuation should be approached and send their responses to robert.holloway@local.gov.uk by Friday 1st March 2019.</p> <p>Update Lorraine Bennett confirmed that SAB had received around 50 responses with the majority indicating their preference for option A (to receive guidance from SAB designed to promote a consistency of approach on how McCloud and/or cost management should be taken account of as part of the 2019 triennial valuation exercise).</p>
5	<p>National LGPS Technical Group:</p> <ul style="list-style-type: none"> Revised Terms of reference (AppB) Revised membership list (AppC) 	<p>Group vote</p> <p>The changes to the Terms of Reference were voted upon and 15 out of the 18 standing members indicated their agreement to the changes. As more than 75% of the standing members agreed to the changes, the vote was passed and the new Terms of Reference approved.</p>
6	<p>Standing item - update from sub-groups:</p> <ul style="list-style-type: none"> Fair Deal (meeting held on 11 February 2019) (draft response AppD) <p>To note: history of sub-group participation (AppE)</p>	<p>Group discussion</p> <p>The group discussed the response proposed by the sub-group. The sub-group felt that the meeting on 11 February 2019 worked extremely well, especially with the attendance of both LGA and MHCLG. The chair thanked the participants for their involvement.</p> <p>Group recommendation</p> <p>The group agreed to issue the response proposed by the sub-group unchanged to MHCLG.</p> <p>In addition, the sub-group felt that 'responsibility around the separate agreement with the employer and contractor should be nothing to do with the administering authority', should be supported by administering authorities when they issue their local responses.</p> <p>Action</p> <ol style="list-style-type: none"> Chair to send response to MHCLG, and LGA to place reminder in bulletin 182 regarding the above. <p>Postscript</p>

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		The chair sent the response to MHCLG on 13 March 2019.
7	<p>Standing item - update from sub-groups:</p> <ul style="list-style-type: none"> • Cost Control (see SAB E&W update) <p>To note: history of sub-group participation (AppE)</p>	<p>To note latest position</p> <p>On 21 December 2019 it was reported that the Court of Appeal held that transitional protections that protected older judges and firefighters from the public sector pension scheme changes in 2015, were unlawfully discriminatory. This case is known as the ‘McCloud case’.</p> <p>Following the judgment, on 30 January 2019 the Government published a written statement that paused the HMT cost management process for public service pension schemes, pending the outcome of the application to appeal the McCloud case to the Supreme Court. This was supplemented by the publication of the Public Service Pensions (Valuations and Employer Cost Cap) (Amendment and Savings) Directions 2019, on 15 February 2019.</p> <p>On 8 February 2019, SAB confirmed it had no option but to pause its own cost management process pending the outcome of McCloud. As a result there are currently no changes to benefits planned in respect of the cost management process (either the LGPS process or HMT process) from 1 April 2019. This situation will be reviewed once McCloud is resolved which is not expected for some months.</p>
8	<p>CEPs</p> <ul style="list-style-type: none"> • Query from NEPOF (AppF) 	<p>Group discussion</p> <p>The group discussed this issue which will affect not only LGPS administering authorities, but also other public service pension schemes.</p> <p>Action</p> <p>MHCLG to seek views from GAD and thereafter agree a consistent approach with MOCOP on behalf of all public service pension schemes.</p> <p>Postscript:</p> <p>MHCLG confirmed on 13 March 2019 “I should be able to give an update on the CEP issue raised by NYPF. MOCOP were aware through other channels”.</p>
9	<p>Consultation: Local government pension scheme: technical amendments to benefits</p> <ul style="list-style-type: none"> • Government response • The Local Government Pension Scheme (Miscellaneous Amendment) Regulations 2018 [SI 	<p>Group discussion and update</p> <p>The group discussed the implication of bulletin 180 (revised).</p> <p>It was confirmed by LGA representatives that:</p> <ul style="list-style-type: none"> • a survivor membership guide will be issued by the LGA. • statutory guidance will be issued by MHCLG. The guidance will contain information concerning how to approach revised benefit calculations, CETVs,

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	<p>2018/1366]</p> <ul style="list-style-type: none"> • Explanatory memorandum • Bulletin 180 (revised) 	<p>Interfunds and trivial commutation.</p> <p>A brief discussion took place concerning the equalisation of all survivor benefits. Robert Ellis confirmed that there was no appetite within Government to undertake this exercise and that it would probably only occur if case law demands (and again only in part depending on case law).</p>
10	<p>Refunds (see minutes of the meeting held on 11 December 2018 - item 2(b))</p> <ul style="list-style-type: none"> • Paper from LGA – 5 year rule? (AppG) 	<p>Group discussion</p> <p>The group discussed the ongoing issue of payment of refunds under the 2014 Scheme.</p> <p>Group recommendation</p> <p>The National Technical Group will make a recommendation to SAB to change the regulations to reflect the position prior to 1 April 2014 (i.e. to remove the prescription that requires an administering authority to pay a refund on the expiry of a period of five years beginning with the date the person's active membership ceased if no request is made before then – regulation 18(5) of the LGPS Regulations 2013 [SI 2013/2356]). In making this recommendation the group acknowledged that interest would be added up to the date of payment, as opposed to on the expiry of 5 years.</p> <p>Postscript:</p> <p>An email was sent by the Chair to Jeff Houston and Bob Holloway on 12 March 2019 requesting the above changes.</p>
11	<p>NI Database usage expansion (see minutes of meetings held on 11 December 2018 – item 2(a) and 28 September 2018 – item 3(b))</p> <ul style="list-style-type: none"> • Unresponsive administering authorities • Auto reminders to refresh data • Update (AppH) 	<p>Group discussion</p> <p>Lorraine Bennett discussed the update paper and commented that the proposals to change the NI database would not be held off, simply because 3 administering authorities had yet to respond.</p> <p>Currently only 79 administering authorities have uploaded their data and even those that have uploaded data do not refresh on a regular basis. It is proposed to insert some wording into the Information Sharing Agreement (ISA) to require administering authorities to (1) upload their data (2) upload regular refreshes.</p> <p>Action</p> <p>Lorraine Bennett to liaise with legal representatives to amend the ISA. Changes expected around May 2019.</p>
12	<p>Transfers out – update re requests from Claims Management Companies (see minutes of the meeting held on 11 December 2018 - item 3(c))</p> <ul style="list-style-type: none"> • Have administering 	<p>The outcome of this item is not for publication within the minutes due to the confidential nature of the agreement.</p>

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	<p>authorities received such requests?</p> <ul style="list-style-type: none"> • If so how many? • Which firms? 	
13	<p>Transfers out – Requests for information from IFA's</p> <ul style="list-style-type: none"> • SPLG would like the group to consider the increasing numbers of information requested from IFA's and what is an appropriate response? (AppI) 	<p>Group discussion</p> <p>The group discussed the difficulties surrounding the amount of information requested by third parties concerning CETVs, estimates of CETVs and general scheme information.</p> <p>Action</p> <p>Heather Currie to share with the group the fact sheet used by the Teesside Pension Fund. This seems to work well in limiting the work to be undertaken by administering authorities upon receipt of such a request.</p>
14	<p>Standing item – LGA technical queries with MHCLG</p> <ul style="list-style-type: none"> • Approval provided by MHCLG to share list • Latest position (AppJ) 	<p>To note latest position</p>
15	<p>Standing item - historical list of recommendations / agreements / outcome of decisions:</p> <ul style="list-style-type: none"> • Latest position (AppK) 	<p>Group discussion</p> <p>The group agreed that this would be a valuable standing item. The list has been updated to reflect the recommendations / agreements / outcome of decisions, of the meeting held on 8 March 2019.</p> <p>Whilst it is relatively easy to maintain going forward in order to be truly useful it was felt that the list should contain all recommendations / agreements / outcome of decisions, made by the National LGPS Technical Group since 1 April 2014.</p> <p>Action</p> <p>Heather Currie to update the list with all recommendations / agreements / outcome of decisions, made by the National LGPS Technical Group since 1 April 2014.</p>
16	<p>Any other business – written details using the blank template for agenda items to be given to the Chairman (Kevin Gerard) prior to the start of the meeting.</p> <ul style="list-style-type: none"> • Note: Meeting to finish promptly at 15.00 – due to heavy agenda it will be unlikely that any other business will be addressed. 	<p>a) LGPC subscriptions</p> <p>Lorraine Bennett mentioned that the LGPC has a number of outstanding invoices for LGPC subscriptions. Lorraine requested that administering authorities check their records and make any outstanding payments as soon as possible.</p> <p>b) Academies</p> <p>A question arose concerning Academies where an Academy moves from one sponsor to another. The guidance states that the liabilities of the transferring members' moves to the new sponsor,</p>

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		<p>however, what happens to pensioner and deferred members?</p> <p>Action MHCLG to provide a view.</p> <p>Postscript: MHCLG responded on 12 March 2019 with the following (suitable areas redacted): “Colleagues, At the Tech Group there was a question regarding the transfer of assets and liabilities when academies are moved between Proprietors. We had received a similar inquiry last week and were waiting on advice from DfE. Please see the response we sent to the other enquirer; Where an academy is transferred from one trust to another, the only real change is, or should be, the name of the employer. The new trust takes on all of the assets and all of the liabilities that the previous trust was responsible for. This includes the liabilities in respect of former employees at the academy (when it was an academy) whether they are deferred or in receipt of benefits. From a DfE point of view, the new trust will be receiving the same level of funding that the previous trust was receiving and will therefore have to meet the costs. Where a MAT continues to operate after the transfer of one of its academies to another trust they simply receive no funding for that academy. It would not be reasonable where a MAT is receiving no funding for an academy for that MAT to have any residual liabilities. But all of this should be sorted out in the transfer process. Where a MAT loses an academy and the running of that academy is not taken over by another trust (i.e. where the academy closes), but the MAT continues to operate (i.e. it continues to operate other academies) the liabilities for the closing academy – all liabilities – remain with the MAT and should continue to be paid down on an ongoing basis. This will avoid the need for a cessation payment calculation/assessment. DfE are currently working on updating the guidance.</p> <p>Happy for this to be circulated to tech group for dissemination to funds – If any MATs are seeking a different solution could you let us know and we’ll pass it on to DfE (who may wish to discuss with the MAT(s) in question”.</p>
	<p>14 June 2019</p> <p>PWC</p>	<p>To note</p>

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	<p>Agenda items for meeting of 14 June 2019 to be supplied to the Secretary by no later than close of play 31 May 2019 using the blank template for agenda items for this meeting.</p>	
	<p>20 September 2019</p> <p>Hymans</p> <p>Agenda items for meeting of 20 September 2019 to be supplied to the Secretary by no later than close of play 6 September 2019 using the blank template for agenda items for this meeting.</p>	To note
	<p>10 December 2019</p> <p>AON</p> <p>Agenda items for meeting of 10 December 2019 to be supplied to the Secretary by no later than close of play 26 November 2019 using the blank template for agenda items for this meeting.</p>	To note