

# LGPC MEETING – 7 March 2022

## Meeting agenda

<b>Item</b>		<b>Timings</b>
1	Welcome, apologies for absence and declarations of interest	11:00
2	Minutes of meeting held on 13 December 2021 – Paper A	11:05
3	Matters arising	11:10
4	Regulations update for England and Wales – Paper B	11:15
5	SAB update for England and Wales – Paper C	11:30
6	Regulations update for Scotland – Paper D	11:45
7	Regulations update for Northern Ireland – Paper E	11:55
8	Update from Technical Group – Paper F	12:05
9	Training and conference update – Paper G	12:15
10	Any other business	12:25
11	Dates of future meetings 6 June 2022; 3 October 2022; 5 December 2022	12:30

## Paper A: Minutes of meeting held on 13 December 2021

### PRESENT

Cllr John Fuller	Chair, LGA
Cllr Richard Wenham	LGA
Cllr Goronwy Edwards	LGA
Cllr Bev Craig	LGA
Cllr Eddie Reeves	LGA
Cllr Oliver Ryan	LGA
Mr Jeremy Hughes	DLUHC
Mr David Murphy	NILGOSC
Ms Kimberly Linge	SPPA
Ms Linda Welsh	SPPA
Mr Alan Wilkinson	SPPA
Mr Kevin Gerard	Technical Group representative

### Secretariat

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Mr Jeff Houston	LGPC
Mr Karl White	LGPC

## 1. INTRODUCTION FROM THE CHAIR

The Chair, Cllr John Fuller [JF] welcomed members to the online meeting. He asked participants to remain on mute and to raise their virtual hands when they wish to speak.

## 2. APOLOGIES

Apologies were received from Cllr Alan Waters, Cllr Keith House, Cllr Phil Murphy, Rachel Brothwood and Elaine English.

No declarations of interest were declared.

## 3. MINUTES

The minutes of the previous meeting held on 27 September 2021 were agreed.

## 4. MATTERS ARISING

JF referred to the budget agreed at the previous meeting. He noted that the considerable surplus would be required to meet the pension and redundancy costs that would arise if the LGPS pensions team was wound up.

## 6. REGULATIONS UPDATE ENGLAND AND WALES

Lorraine Bennett [LB] presented the key points from Paper B.

### **New Minister**

Kemi Badenoch was appointed as the Minister of State for the Department for Levelling Up, Housing and Communities (DLUHC) in September. She replaces Luke Hall and also retains her position as Minister for Equalities.

### **Pensions tax relief**

As part of the Autumn 2021 Budget, the Government responded to the call for evidence on pension tax relief administration. The response addresses the anomaly of the tax position for those who do not pay tax based on what type of pension scheme they belong to.

Individuals get tax relief on pension contributions as an incentive to encourage savings. Most defined contribution schemes operate relief at source. In a scheme that operates relief at source, contributions are deducted after tax. The scheme then claims back tax relief from HMRC. Members benefit from that tax relief even if they do not earn enough to pay tax.

In a net pay arrangement, such as the LGPS, pension contributions are deducted before a member's income is assessed for tax. This means that those who do not pay tax do not benefit from any tax relief.

The Government will introduce a system from the 2024/25 year to allow low earners who are members of a scheme that operates a net pay arrangement to claim back a top-up payment. HMRC will identify and notify scheme members who are able to claim a payment. Payment will be made directly to the individual, but only if the person makes a claim.

Cllr Richard Wenham [RW] asked how many LGPS members may be affected and how they could be supported. LB believes that up to 500,000 members of the LGPS may be entitled to this type of payment. We need more information on how the system will operate before we can say how councils and other employers can support part time employees and make sure people who are entitled to this payment claim it.

Jeff Houston [JH] noted that communications will present a significant challenge. Unsolicited messages pretending to be from HMRC are a common form of scam. Carefully badged communications should be used to help low earning individuals recognise this legitimate contact from HMRC.

### **Government response to pension scam consultation**

The Government responded to its consultation on pension scams on 8 November 2021 and made regulations which had effect from 30 November 2021. The regulations give new powers to pension schemes to stop a pension transfer if they believe the member is at risk of a pension scam. We welcome changes that protect members but recognise that the short timescales will present problems for administrators.

The LGA pensions team is working on guidance and template documents which we aim to publish by the end of the week. The Pensions Regulator has also published guidance on the new powers that will assist administering authorities.

## **7. SAB UPDATE [E&W]**

JH presented the key points from paper C.

### **Prudential**

Tracy Harris (Customer Service Director) and Alastair Hogg (Head of Corporate Pensions) at Prudential will attend the Scheme Advisory Board (SAB) meeting later

today. They will be asked about the significant drop in Prudential's service level in the past 18 months. SAB is particularly keen to see a recovery plan that includes timescales.

Prudential's performance has caused delays in the retirement process for members with AVCs. Annual benefit statements and annual allowance calculations have also been delayed. Prudential has reported itself to the Pensions Regulator because it has missed statutory deadlines.

### **Letter from Michael Lynk**

Michael Lynk, United Nations Special Rapporteur on the Palestinian Territories, has written to chairs of LGPC pension committees in England and Wales, the SAB and the Local Authority Pension Fund Forum (LAPFF). The letter concerns fund investments in companies that are involved in the occupied territories of the West Bank.

The SAB and LAPFF chairs intend to arrange a call with Mr Lynk to ask about the contents of the letter. Of particular interest is whether the letter was sent in a personal capacity or on behalf of the United Nations. They will also ask how a business identified as one 'involved in certain specified activities related to the Israeli settlements in the Occupied Palestinian Territory' can be removed from the database when it is no longer involved in the 'specified activity'.

JF has received emails about this issue in recent days, and notes that other groups hold similar views about investments in companies associated with arms, smoking and climate change. LGPS pension funds have a duty to scheme members and a responsibility to provide value for money to taxpayers. They should be able to fulfil those responsibilities without being hampered by such pressures.

JH reminded the Committee that Law Commission's opinion was that administering authorities could consider non-financial factors when making investment decisions, as long as there was no material impact on returns.

Jeremy Hughes [JHu] gave an update on the Government position. The Government remains committed to its manifesto commitment to introduce a ban on disinvestments that are not in line with Government policies. This will require primary legislation and they do not currently have a Parliamentary slot to introduce this legislation.

## Annual Report Survey

Some administering authorities were not able to publish their annual report by the 1 December 2020 deadline because the council's accounts had not been audited by that date. The SAB has surveyed for administering authorities about the current position. The survey results suggest that there has been no improvement this year.

The SAB will monitor the annual reports that are submitted to check whether they include audited accounts or draft accounts that have not been audited. The Welsh approach of separating pension fund accounts from council accounts may be the solution. This is an issue that the SAB's new Compliance and reporting committee will consider.

## Board membership

The Department for Education has requested that a representative for academies serves on the SAB. They were not previously represented because there was no national body representing the interests of academies. Now there is such a body, the SAB will hear a proposal to create additional seats on subcommittees that can be taken by an academy representative. When the current representative from the HE/FE sector leaves the Board, that vacancy will be taken by an academy representative.

## Cost management committee report

JHu updated the Committee on the exit payment cap. A consultation had been expected before Christmas. The Levelling Up white paper has been postponed until January 2022 and so the exit payment and TCFD consultations are now expected in the new year.

JH reported that the Public Service Pensions and Judicial Offices Bill will shortly enter the Report stage in the House of Commons. We do not expect to see the amended Bill until January or February 2022. There are still significant legislative changes to make to implement the McCloud remedy, particularly around pensions tax.

RW asked about the expected costs of implementing the McCloud remedy. JH confirmed that the short-term costs associated with paying increased benefits will be small because only very few pensioners will see an increase to their benefits. Potentially less than 1% of pensioners will see an increase. Longer term, the costs may be more significant. The cost of the underpin will be higher for members with

large pay rises after 1 April 2014. The cost will be determined by the profile of members who remain in the LGPS and how much their pay increases by.

JH believes that the immediate challenge will be for administrators and the requirement to gather data and re-visit past calculations. Actuaries do not anticipate that the cost of the McCloud remedy will impact materially on employer contribution rates. Kevin Gerard [KG] reiterated the burden that administrators face and noted that many administering authorities had already factored in McCloud costs as part of the valuation in 2019.

The 2022 valuation position looks good. Actuaries expect a better funding position in 2022 than there was in 2019. The actual results will vary across administering authorities and employers.

JF noted that SAB's decision to spread the cost of the McCloud remedy over ten years and that this will have an impact on the 2022 valuation results. He asked whether the LGPS could still be affected by the results of the HM Treasury (HMT) cost control process as that is based on different assumptions. JH expects to have conversations with HMT on the best way forwards. The aim is for the SAB cost control process to be based on a discount rate that reflects the rates used in the LGPS. We could reach a position where the SAB cost control process would override the result of the HMT process if it is based on a more representative discount rate.

JH warned the Committee to expect a Judicial Review concerning the inclusion of McCloud remedy costs in the 2016 scheme valuations.

TCFD regulations already require other schemes to report on exposure to climate risk. We expect a consultation to introduce similar rules to the LGPS. JH emphasised the importance of having certainty on the policy before 1 April 2022 if 2022/23 will be the first reporting year. Having regulations would be the ideal way to provide that certainty but administering authorities will need something concrete before 1 April 2022 telling them what to collect. JH noted that the DWP regulations were already being amended. He is concerned that the regulations that apply to the LGPS may not be in line with the DWP regulations because of these changes and future evolution of the rules.

JHu confirmed that the consultation is still with the Minister for approval. He expects the consultation to cover the policy but not to include draft regulations. The usual 12-week consultation period could be reviewed and shortened in order to meet the 1 April 2022 deadline.

## 8. REGULATION UPDATE SCOTLAND

The Committee noted the key points from paper D, which was presented by Kimberly Linge [KL].

### **Regulations – Draft Amendments to LGPS (Scotland) Regulations 2018 (SSI 2018/141)**

The consultation on draft amendments to the LGPS (Scotland) was launched on 1 November 2021. It is due to close on 7 January 2022, but SPPA has received requests for an extension from stakeholders. They want all parties to be able to submit full responses to the consultation but changing the timing may not be possible. They are waiting for a decision.

### **Government Actuary's Department (GAD) – cost cap**

The amended regulations will include the correct valuation figure – the current figure of 15.5 percent will be replaced by 15.2 percent. This will allow GAD to finalise the cost control element of the 2017 scheme valuation.

### **Governance and reporting of climate change risk**

SPPA will work with DLUHC to make sure they have a consistent approach in the important area of climate change risk.

The Scottish SAB will set up a working group to look at governance, strategy and risk management associated with climate risk. The group will meet this month and feed back to the Board in February 2022.

## 9. REGULATIONS UPDATE NORTHERN IRELAND

The Committee noted the key points from paper E, which was presented by David Murphy [DM].

### **LGPS regulations**

DM confirmed that the consultation on regulation amendments he described at the last meeting in September has now closed. The proposed changes will affect survivor benefits and implement the decisions in the Walker v Innospec and Goodwin court cases. They have identified another cohort of survivors of scheme members for whom survivor benefits have not been equalised and are considering whether further amendments are needed.



The consultation also covered regulation changes that will give the Department the power to issue statutory guidance and change the timescales associated with the Internal disputes resolution procedure.

## 10. UPDATE FROM TECHNICAL GROUP

The Committee noted the key points from paper F, which was presented by KG.

Administering authorities are reporting their progress on the McCloud remedy quarterly. One theme from the second round of responses is that a large amount of manual intervention will be needed to update member records with post 2014 service data from employers.

Administering authorities have received a large number of requests from claims management companies in recent months. Technical Group has requested a timeline showing what information should have been sent at different times to members seeking to transfer out of the LGPS.

**Action:** LGA pensions team to progress the production of a scam communications timeline.

The Technical group welcomes the SAB's efforts to engage with Prudential and looks forward to an update following the meeting later today. Technical group thanked the LGA for the work they have done in preparation for the introduction of pensions dashboards.

JF noted the large number of scheme changes and other developments on the way and raised concerns about capacity, specifically:

- whether software suppliers are able to keep up with the changes
- does the Minister appreciate the level of strain that these changes will place on the limited (and diminishing) number of technical staff working in the LGPS?

JHu confirmed that the McCloud changes result from a legal judgment and so there is no option but to implement the remedy. He recognises the amount of work that will be involved to identify members who are affected. As the numbers are low, the next stage of rectifying benefits for those members will be less of a burden in the LGPS than it is expected to be in the other public service pension schemes. DLUHC will continue to have discussions about what they can do to help administering authorities. The Good governance review covers making sure that the administration

function is sufficiently resourced. Mergers and shared services provide a route that would allow funds to pool resources and maintain and develop expertise.

JH stated that what DLUHC could provide that would help them the most is clarification on what administering authorities have to do and when to implement the McCloud remedy. Trade unions are currently asking members to be patient as we wait for final regulations. If there are any further delays in implementing the remedy, that patience may run out. The result could be the expensive and time-consuming legal challenges that have been brought against other public sector pension schemes.

## **11. TRAINING AND CONFERENCE UPDATE**

The Committee noted the key points from paper G, which was presented by Karl White [KW].

The Fundamentals training programme has been delivered in person, with the option of virtual attendance at the London events. The final event planned to take place in Cardiff in December has been moved to an online only event. Current rules would allow the event to take place in person, but this would go against LGA guidance on working from home.

The hybrid events have presented learning opportunities about room set-up and sound quality that will help us deliver events in the future.

KW delivered the Insight residential course for new LGPS administrators in Bournemouth as well as providing bespoke training to administering authorities. Insight was due to run again in Blackpool in February and May 2022. We will wait to see if these events can go ahead based on how the pandemic and Government guidance develop.

Employer role training is on hold until the new post agreed at the last meeting has been filled. LB informed the Committee that the post has been advertised and closes for applications on 3 January 2022.

KW will set up a focus group of representatives from administering authorities to discuss training priorities and set the training plan for the next two years. He has contacted the chairs of the regional pensions officer groups to ask for volunteers. The group will meet virtually twice a year.

There is uncertainty about the Governance conference planned to take place in Bournemouth on 20 and 21 January 2022. Delegates have booked to attend either in

person or online. Under current Government guidance the event can go ahead. However, if that guidance changes or if delegates change their minds and wish to attend virtually, then the conference could be changed to an online only event.

RW and Cllr Goronwy Edwards expressed their hope that the conference could go ahead in person.

## **12. ANY OTHER BUSINESS**

JH announced that this would be his penultimate LGPC meeting. He will be leaving the LGA at the end of March 2022 but intends to continue his involvement within the sector.

## **13. DATE OF NEXT MEETING**

Next year's meetings will be held on:

- 7 March 2022
- 6 June 2022
- 3 October 2022
- 5 December 2022

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# Paper B – Regulation update England and Wales

## Key points to note

- New legal requirement to nudge AVC members to guidance
- More members in scope for McCloud remedy
- Second review of State Pension age launched
- Consultation and draft regulations on pensions dashboards issued

## Decisions

The Committee is asked to note the content of this report.

## DWP responds to nudge consultation

The Department for Work and Pensions (DWP) responded to the consultation 'Stronger Nudge to pensions guidance' on 17 January 2022. On the same day, the DWP laid before Parliament [the Occupational and Personal Pension Schemes \(Disclosure of Information\) \(Requirements to Refer Members to Guidance etc\) \(Amendment\) Regulations 2022](#). The regulations come into force on 1 June 2022 and apply to England, Scotland and Wales.

The regulations will require administrators of occupational pension schemes, including the LGPS, to give to their members, in certain cases, a stronger nudge to Pension Wise guidance.

Administering authorities will need to give the stronger nudge where it receives an application, or a communication in relation to an application, from a member to start receiving their additional voluntary contributions (AVCs) on or after 1 June 2022. The regulations also apply to applications from members aged 50 or over to transfer out their AVCs.

The Pensions Regulator, in its ['Why it's time for trustees to Pension Wise up' blog](#), confirmed that it will give guidance before 1 June 2022 to help schemes prepare for the changes.

We will give further information for administering authorities in due course.

## Consultation on draft Pensions Dashboards Regulations

DWP published a [consultation on the draft Pensions Dashboards Regulations](#) on 31 January 2022. The consultation will run for six weeks and will close on 13 March 2022.

Pensions Dashboards will allow individuals to see information about all their pensions, including the State Pension, in one place. These draft regulations set the requirements to be met to deliver this and will place a legal duty on pension providers to provide information to the Dashboards.

The consultation proposes a staging deadline of the end of April 2024 for public service pension schemes, including the LGPS. This means that LGPS administering authorities will need to be able to connect to the digital architecture by this date and be ready to provide individuals' data to them via the dashboards.

We will be responding to the consultation on behalf of this Committee and the LGA. Our response will express concern about LGPS administering authorities' ability to meet the staging deadline given the other pressures they face.

We expect the McCloud remedy regulations to come into force from 1 October 2023. LGPS administering authorities will already be under a huge pressure at this time retrospectively recalculating pensions back to 1 April 2014, paying arrears with interest, correcting past transfers, and dealing with the resulting pension tax implications. We are, therefore, doubtful that a staging deadline of April 2024 is achievable.

## Amendments tabled to the P S P J O Bill

The Government tabled further [amendments to the Public Service Pensions and Judicial Offices \(PSPJO\) Bill](#) on 21 January 2022. In summary, the amendments relevant to the LGPS are:

- redefine “remediable service” so that it also potentially covers members who were not in pensionable service on 31 March 2012 in a relevant public service pension scheme but who were in such service before then
- extend the types of schemes where pensionable service of which would not count as a disqualifying break
- allow regulations to provide final salary benefits for transferred-in service from different public service schemes where the service benefitted from final salary protection in the other scheme

- allow regulations to restrict service between 1 April 2014 and 31 March 2022 from having final salary protection unless the member has transferred in or aggregated previous service
- allow regulations to make provision adjusting pension credits and debits to reflect the McCloud remedy
- allow regulations to make provision about teachers who qualified for the LGPS
- make provisions about compensation and interest payments.

We understand [the Bill](#) is still on track to receive Royal Assent by 1 April 2022.

## Second review of State Pension age

[The review](#) was launched by DWP on 14 December 2021. It will consider if the State Pension age (SPa) rules are still appropriate based on the latest life expectancy data and other evidence.

The Pensions Act 2014 requires Government to regularly review SPa and for the latest review to be published by 7 May 2023.

Two independent reports will be commissioned as part of the review:

- the Government Actuary will provide a report assessing the appropriateness of SPa considering the latest life expectancy projections
- Baroness Neville-Rolfe will provide a report on other relevant factors including recent trends in life expectancy and other metrics.

Evidence from across the UK will be considered in the review.

On 9 February 2022, DWP launched a call for evidence to gather views on this subject to feed into that review. The [independent report call for evidence](#) will close on 25 April 2022.

The call for evidence seeks views from members of the public and all interested parties on various points including:

- intergenerational fairness
- notice periods for State Pension age changes
- changes in working patterns
- predicted future changes to the workplace
- sustainability and affordability

- options for taking into account differences in circumstances when setting State Pension age
- what metrics should be considered to determine State Pension age.

## **Head of Pensions**

As many of you will be aware, Jeff Houston is retiring from the role of Head of Pensions at the LGA and Secretary to the Local Government Pension Scheme Advisory Board (SAB) in England and Wales on 31 March 2022.

We are pleased to confirm that following a competitive recruitment exercise Joanne Donnelly will be taking over the role from 1 April 2022. Jo will be known to many of you through her existing role as Senior Pensions Secretary and Deputy SAB secretary. She previously worked at HM Treasury.

## **Contact officer**

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## Paper C – Scheme Advisory Board Update

### Key points to note

Particular attention is drawn to the sections on Levelling Up, Sharia Law and Section 13 report recommendations.

### Decisions

The Committee is asked to note the content of this report.

### Summary

This report sets out below the current activities of the Local Government Pension Scheme Advisory Board (England and Wales).

### Levelling Up White Paper

1. The White Paper includes the following references to the LGPS:

“...It is also why the Prime Minister and Chancellor have called on the UK’s institutional investors to seize the moment for an “Investment Big Bang” to boost Britain’s long-term growth. **The UK Government will go further and work with Local Government Pension Funds to publish plans for increasing local investment, including setting an ambition of up to 5% of assets invested in projects which support local areas**” [Executive Summary]

“There is huge potential for institutional investment to support levelling up, across infrastructure, housing, regeneration and SME finance. Institutional investors currently hold UK pension assets of over £3.5tn. Within that, the Local Government Pension Scheme (LGPS) has total investments of over £330bn, making it the largest pension scheme in the UK. Only a tiny fraction of these funds are currently allocated to local projects. If all LGPS funds were to allocate 5% to local investing, this would unlock £16bn new investment” [Page 162]



“Infrastructure investment by the LGPS has grown from under £1bn in 2016 to £21bn in 2021. To build on this established capacity and expertise, and ensure that all LGPS funds play their full part, the UK Government is asking **LGPS funds, working with the LGPS asset pools, to publish plans for increasing local investment**, including setting an ambition of up to 5% of assets invested in projects which support local areas...” [Page 163]

### **Further clarification**

2. On the day of the publication of the White Paper members of the Secretariat met with DLUHC officials to seek to clarify the White Paper’s aims.
3. Officials made clear that the up to 5% quoted was an ambition and was neither mandatory in scale nor a ceiling not to be breached. It will however be mandatory to have a levelling up plan to achieve that ambition.
4. It was further clarified that “local” in this context is not restricted to the backyard of the fund. Therefore, investments anywhere in the UK could be included in a levelling up plan.
5. The White Paper makes references to ‘increasing investment’. It would appear that Government is not looking for LGPS funds to count existing investments in this area. The plan should rather set out how new investments will seek to achieve the ambition in this area.
6. In the matter of fiduciary duty there does not appear to be any expectation that LGPS funds should put intervention outcomes above those of return. Instead, the intention would seem to be for funds to actively seek opportunities in this space which contribute to the levelling up agenda, while at the same time providing expected levels of return.
7. We are informed that a consultation in the summer will cover this, the outstanding climate risk and reporting regulations, pooling guidance and incorporation of the 2019 CMA order requirement to set objectives for consultants.

### **Next steps**

8. The Department will enter into discussions with the Board and directly with LGPS funds and pools in the run up to the summer in order to inform the consultation.
9. In particular, it would be useful to discuss the following areas to ensure an effective consultation process:

- confirmation of the expectations to be placed on LGPS funds regarding the balance between return and levelling up outcomes.
  - clarification of the relationship between the 5% ambition in this space and the ceiling of 5% of local investments able to be made outside of pools as set out in the aborted 2019 informal consultation on pooling guidance.
  - how the barriers to investment in this space, with regard to scale and availability of opportunities and the resources required for due diligence, could best be overcome both within and outside of LGPS asset pools.
10. To ensure the Board is best placed to contribute to these discussions it is proposed that the Secretariat, together with the RIAG, investigate and recommend appropriate educational opportunities for Board and Committee members in this space.

## Sharia Law and the LGPS

### Background

11. Lydia Seymour (Outer Temple Chambers) was instructed in October 2021 to provide advice on four questions relating to issues raised by some LGPS administering authorities.
12. A conference was held via MS Teams with Counsel, LGA Legal and SAB Secretariat members in late November 2021 to discuss the questions in more detail.
13. Counsel provided their written advice recently. The Secretariat is clarifying whether the advice can be published in full.

### The Issue

14. Several LGPS administering authorities have raised the issue of members opting out of the LGPS because of their religious belief. Currently, as far as we are aware, these appear to be limited to those of the Muslim faith who are concerned that LGPS funds/investments are not Sharia compliant / halal.
15. Employers are becoming concerned about potential discrimination claims being brought in the Employment Tribunal (ET) by employees who feel excluded from membership of the LGPS due to their religious beliefs. At present there is no alternative pension provision with their employer beyond the LGPS.
16. We explored with Counsel the risk of a claim made on this basis being successful, and what, if any, defence could be mounted were there to be such a claim. Counsel advised that taking pre-emptive action, such as exploring the

legal issues and procuring advice, would be an important part of any future defence.

17. Counsel was not asked to opine on whether the LGPS is Sharia compliant. There are many differing views on this question; what is important is an individual's genuinely held beliefs. Counsel advised that either a discrimination claim in the ET was possible, or a broader human rights-based challenge in the civil courts.
18. Clearly this is a complex area, and Counsel's lengthy advice demonstrates that. At a high level, her advice is that, at present, it is arguable whether employers have the legal power to offer an alternative to the LGPS. If that were to be clarified as permissible, offering alternative pension provision could most likely not be limited just to Muslim employees who opt out of the LGPS by reason of their religious beliefs. Any alternative provision (which would probably be a Defined Contribution (DC) scheme offering inferior benefits to the LGPS) would need to be offered to all employees.
19. There are obvious implications for employers and administering authorities of offering and administering more than one pension scheme, especially where those schemes could differ significantly. Clearly there are also implications for employees opting out of the LGPS for reasons other than religious beliefs. They may choose a cheaper, less beneficial DC scheme without fully understanding the benefits they receive through membership of the LGPS.
20. Recognising one group of employees' beliefs may also lead to pressure from others with strongly held philosophical beliefs who may wish to have more control over the funds that their pension contributions are invested in. It is unlikely to be desirable to have an LGPS employer offering several different pension options, all of which would likely be inferior to the LGPS (even if the employer contribution rate was the same).

### **Next steps**

21. There are some further questions that could be explored in more detail, on Counsel's recommendation. These would include instructing an Islamic scholar to provide an opinion on the LGPS and Sharia law.
22. The Board will be asked to consider whether further enquiries should be made, and expert advice sought. The Board will also be asked whether Counsel's advice should be published (if agreeable, an abridged version if necessary).

### **Section 13 Report Recommendations**

23. The Government Actuary has been appointed by the Department for Levelling Up, Housing and Communities (DLUHC) to report under section 13 of the

Public Service Pensions Act 2013 in connection with the actuarial valuations of LGPS funds in England and Wales

24. Section 13 requires the Government Actuary to report on whether the following aims are achieved:
- Compliance
  - Consistency
  - Solvency
  - Long term cost efficiency.
25. GAD made four recommendations as part of the report. Three of the recommendations propose action by the SAB, these are set out below.
26. Recommendation 1: The Scheme Advisory Board should consider the impact of inconsistency on the funds, participating employers and other stakeholders. It should specifically consider whether a consistent approach needs to be adopted for conversions to academies, and for assessing the impact of emerging issues including McCloud.
27. Recommendation 2: We recommend the Scheme Advisory Board consider how all funds ensure that the deficit recovery plan can be demonstrated to be a continuation of the previous plan, after allowing for actual fund experience.
28. Recommendation 4: We recommend the Scheme Advisory Board review asset transfer arrangements from local authorities to ensure that appropriate governance is in place around any such transfers to achieve long term cost efficiency.
29. The Board will be asked to consider how it wishes to progress these recommendations.

### **Cost management Committee - 14 February 2022 meeting**

#### **Exit Cap and McCloud**

30. We understand that now work on the Levelling Up White Paper is complete the issue of the £95K exit cap will be returned to however no timings have been provided for this work.
31. McCloud is covered in another report to this Committee.

## **Cost Control 2016 and 2020**

32. Proposals to amend the Board's Cost Management Process in line with the changes being made to HM Treasury's Cost Control Mechanism (CCM) will be put to the Board for agreement. In summary these are:
- tighter integration with revised HMT CCM
  - move to reformed scheme only basis (while retaining impact of underpin)
  - move to a three per cent corridor (while retaining may/should/must)
  - formally integrate impact of changes in the discount rate
  - transition away from automatic management of the contribution ratio in existing scheme regulations.
33. We understand that the Judicial Review on the inclusion of McCloud costs in the 2016 Cost Control Mechanism will proceed later this year. Should the JR find against Government, the 2016 process could be reopened.

## **Annual Report Update**

34. The committee were advised that it would appear 36 funds are yet to publish audited annual reports with nine not appearing to have published any report as of yet. These funds will be followed up.

## **Investment committee report - 21 February 2022 meeting**

35. At the time of drafting the Committee was yet to meet but will consider the following items in its agenda:
- Levelling Up White Paper (see above)
  - New Compliance and Reporting Committee
  - Sharia law and LGPS (see above)
  - Code of Transparency Compliance update
  - Update on meeting with Michael Lynk
  - Update from DLUHC.

## Contact officer

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## Paper D – Scotland regulation update

### Decisions

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

### Summary

#### **1. Draft amendments to the Local Government Pension Scheme (Scotland) Regulations 2018 (SSI 2018/141)**

- 1.1 The consultation on the draft amendments to The Local Government Pension Scheme (Scotland) Regulations 2018 (SSI 2018/141) was published on 1 November 2021 and after a two-week extension provided at the request of Stakeholders, closed on 21 January 2022.
- 1.2 We received 14 responses to the consultation, several of them regarding how regulations 60, Actuarial valuations of pension funds and regulation 61, Special circumstances where revised actuarial valuations and certificates, will work in practice.
- 1.3 In their response to the consultation, stakeholders have advised that guidance will be necessary to ensure the proper use of these flexibilities, similar to the Guide to Employer Flexibilities, as provided by the Scheme Advisory Board for England and Wales in March 2021.
- 1.4 We also received comments on the amendments to survivor benefits to address the differences in survivor partner pensions between surviving civil partners, survivors of married same-sex couples and male survivors of female married members and addressing the proper function of the ‘underpin’ calculations.
- 1.5 We have asked our legal team for their advice on whether changes to these amendments are required.

#### **2. McCloud update – progress on the Pensions Bill**

- 2.1 The Public Service Pensions and Judicial Offices Bill is currently working its way through the committee stage and is on track to get Royal Assent early in 2022.

2.2 The Department for Levelling-up, Communities and Housing (DLUCH) has confirmed that they intend that their final McCloud remedy regulations will be made in Summer 2022. Scheme regulations will then be backdated to 1 April 2014.

2.3 Scottish Ministers intend to mirror those regulations. It is intended that Scheme regulations will be made in the second quarter of 2022 and coming into force on 1 April 2023. The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2022 will be backdated to 1 April 2015.

### **3. The Pensions Dashboards – consultation on the draft Pensions Dashboards Regulations 2022**

3.1 The UK Government's consultation on the draft Pension Dashboard Regulations 2022 was published on 31 January 2022 and will close on 13 March 2022. It believes Pensions' dashboards will revolutionise the way people interact with their pensions. This will make accessing pensions information easier by allowing people to see what they have in their various pensions and provide a comprehensive view of what a person may receive in retirement.

3.2 Larger pension schemes will be the first to connect to the digital architecture from April 2023 with a connection deadline for the first cohort (the largest Master Trusts) at the end of June 2023. The final cohort's deadline for large scheme is set for the end of September 2024. Medium and smaller providers will follow from October 2024 until 2026. Information on State Pensions will be included on dashboards from the start.

3.3 Public Sector Pensions will be expected to connect by April 2024. SPPA has raised their concern to the Department for Work and Pensions (DWP) that this timeline will be administratively challenging due to the requirement to also address the McCloud remedy at the same time.

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# Paper E – Northern Ireland regulation update

## Background

Public Service pension regulations are a devolved matter for the Northern Ireland Assembly. Regulations for the Local Government Pension Scheme (LGPS) in Northern Ireland are made by the Department for Communities (the Department).

The Northern Ireland Assembly made its own version of the [Public Service Pensions Act \(Northern Ireland\) 2014](#).

## Decisions

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

## LGPS regulations

The Department's consultation on the McCloud remedy closed on 31 January 2021. Its response is awaited.

On 8 October 2021 the Department issued a new consultation on changes to the regulations to remedy the Goodwin case and amend the remedy for the Walker Innospec judgment. It proposes making amendments that are retrospective to 2005. The consultation is closed and we await the regulations being made.

We are still awaiting regulations to introduce the requirements of the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 and the pertinent elements of the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations (Northern Ireland) 2021. These will follow once MHCLG issue the equivalent regulations for LGPS (E&W).

## Public Service Pensions and Judicial Offices Bill

On 1 November 2021 the NI Assembly agreed a Legislative Consent Motion (LCM) for the Public Service Pensions and Judicial Offices Bill before Westminster at that time. The passing of the LCM means that the Bill will be adopted by Northern Ireland once passed in England and Wales. On 31 January 2022 the NI Assembly passed a further LCM to adopt the amendments to the Bill relating to the changes to the Cost-Cap process.

## **Governance**

The NI LGPS Scheme Advisory Board last met on 15 September 2021. The [minutes of previous meetings](#) are available on the Department's website.

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# Paper F – Technical Group update

## Background

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

## Decisions

The Committee is asked to note the content of this report

## Update from 7 December 2021 meeting

### McCloud remedy

Each Pension Officer Group (POG) collates responses and provides updates on the questions below every quarter:

- at what stage is each administering authority with regards to collecting the hours/breaks data?
- administering authorities that already have the hours/breaks data, are you checking the existing data? Or, are you assuming that it is correct?
- have any LGPS employers refused or are unable to provide the missing hours/breaks?
- have administering authorities communicated with scheme members about McCloud?
- have administering authorities put in extra resource to cover this project?
- are administering authorities in discussions with their system provider, in terms of loading the missing data? and/or, recalculating benefits etc? (with the caveat that until remedy is received, we are not 100% sure what the final position will be)
- anything else any administering authority wishes to add.

Whilst software systems may be able to extract information for validation by employers, scheme administrators still anticipate having to undertake a large number of manual calculations in order to reflect the change from CARE to final salary/service before recalculating member benefits.

## **DLUHC update**

Jeremy Hughes provided updates on McCloud remedy, Section 13 Report, the Taskforce for Climate related Financial Disclosures (TCFD) and the expansion of the Pensions team at DLUHC which will allow the Department to consider the recommendations previously put forward by the SAB.

## **Data subject access requests (DSARs)**

All POGs requested template documentation to deal with the increase in DSARS from claims management companies. Revised drafts are awaited from Squire Patton Boggs which will be reviewed by representatives of Technical Group.

## **Pension scams**

An historical timeline of pension scam information has been requested by regional POGs. LGA will arrange for this to be collated.

## **Prudential**

Poor customer service continues from Prudential with limited improvement experienced. Scheme members are forced to wait extended periods for payment of pension and AVC benefits.

## **Pensions Dashboards**

Technical Group requested that each POG collate responses to questions in respect of the Dashboards. Each software supplier was also asked to feedback in respect of their development progress at each meeting.

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# Paper G – Training and conference update

## Decisions

The Committee is asked to note the contents of this report

## Annual LGPS governance conference

The conference took place on 20-21 January and was run as a hybrid event for the first time. Feedback from both online and in person attendees is excellent – an average rating of 4.3 out of 5.

The Audio Visual (AV) team were excellent. We will be using the same team at next year's conference which will take place in Cardiff on 19-20 January 2023.

## Training focus group

The first meeting of the new training focus group took place on January 26. The group has been set up to assist the Secretariat in putting together our training plan for practitioner training. Two representatives from each regional Pensions Officer Group (POG) were invited to join the group. All regions except Scotland and the Southwest were represented

The meeting provided useful insight into the requirements of practitioners. There is a clear indication that both online and face to face training are needed going forward. Further development of digital resources and a potential online subscription service were requested. We have agreed to publish an annual training plan and are currently considering the other requests.

## New employer post

We have successfully recruited to the new employer focused pensions adviser role. Lisa Clarkson will be joining the team on 7 March. Lisa is currently a technical and training officer at South Yorkshire Pensions Authority. Lisa will focus on employer training and guidance as well as supporting practitioner training.

## Annual training plan

We are currently working on the 2022/23 training plan and aim to publish it before 31 March. We will prioritise Scottish aggregation and pension tax training in the short term.

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