

# LGPC MEETING – 6 June 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 7 March 2022 – Paper A	11:05
3	Matters arising	11:10
4	LGPC budget – Paper B	11:15
5	Regulations update for England and Wales – Paper C	11:25
6	SAB update for England and Wales – Paper D	11:35
7	Regulations update for Scotland – Paper E	11:50
8	Regulations update for Northern Ireland – Paper F	12:00
9	Update from Technical Group – Paper G	12:10
10	Training and conference update – Paper H	12:20
11	Any other business	12:25
12	Dates of future meetings 10 October 2022; 5 December 2022	12:30

## Paper A: Minutes of meeting held on 7 March 2022 - Hybrid

### PRESENT

Cllr John Fuller	Chair, LGA
Cllr Richard Wenham	LGA
Cllr Goronwy Edwards	LGA
Cllr Eddie Reeves	LGA
Cllr Oliver Ryan	LGA
Cllr Keith House	LGA
Cllr Alan Waters	LGA
Cllr Phil Murphy	LGA
Mr David Murphy	NILGOSC
Ms Kimberly Linge	SPPA
Ms Linda Welsh	SPPA
Mr George Graham	SAB representative
Mr Kevin Gerard	Technical Group representative

### Secretariat

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Mr Jeff Houston	LGPC
Ms Joanne Donnelly	LGPC
Ms Elaine English	LGPC

## 1. INTRODUCTION FROM THE CHAIR

The Chair, Cllr John Fuller [JF] welcomed members to the online meeting and introduced George Graham [GG] who has replaced Rachel Brothwood as the SAB representative.

## 2. APOLOGIES

Apologies were received from Cllr Bev Craig and Karl White.

No declarations of interest were declared.

## 3. MINUTES

The minutes of the previous meeting held on 13 December 2021 were agreed.

## 4. MATTERS ARISING

Lorraine Bennett [LB] confirmed that Eversheds Sutherland had been chosen to deliver the timeline of pension scam communications referred to at the last meeting.

Representatives from Prudential attended the last Scheme Advisory Board (SAB) meeting. The Board asked them to provide a communication specifically for LGPS administering authorities and a timeline for service improvements. LB expects Prudential to supply this communication in the next few weeks.

David Murphy [DM] and Kimberley Linge [KL] confirmed that employers and administering authorities in Northern Ireland and Scotland had experienced similar problems with Prudential. This has caused delays in the retirement process for members with AVCs.

## 5. REGULATIONS UPDATE ENGLAND AND WALES

LB presented the key points from Paper B.

### **New legal requirement to 'nudge' AVC members to guidance**

The Department for Work and Pension (DWP) has responded to the Stronger nudge to pensions guidance consultation. Regulations will require administering authorities to 'nudge' members with in-house AVCs towards Pension Wise guidance when they apply to take their AVC or transfer their AVC fund from 1 June 2022. The administering authority will also have to offer to make the appointment on the member's behalf.

A joint response to the consultation was submitted by the LGA and the LGPC in September 2021. The DWP has taken some of the issues raised in that response into account in their response.

The Pensions Regulator has updated its [Communicating and reporting guidance](#) to include the requirement to direct members to Pension Wise guidance in certain circumstances.

**Action:** LGA pensions team to provide further information to administering authorities about the new requirements by updating the existing AVC technical guide.

## Dashboards

The aim of the pensions dashboards is to allow scheme members to see information about all their pensions, including the State Pension, securely online. The DWP launched a consultation in January on draft regulations to achieve this. The six-week consultation closes on 13 March 2022. LB noted that six weeks was a relatively short period to respond comprehensively to the issues raised in the consultation document, draft regulations and draft standards which amount to several hundred pages. DM agreed that a consultation period of six weeks was not long enough for such a significant consultation.

The consultation and draft regulations propose that public service pension schemes will have to connect with the dashboards by 30 April 2024 at the latest. Administering authorities will have a legal duty to provide information in response to requests received through the dashboard once this staging date has passed.

The LGA draft response says that this deadline is unachievable for LGPS administering authorities. We expect the McCloud remedy regulations to be in force from October 2023. This means that administering authorities will then start re-calculating benefits back to 1 April 2014, paying arrears and interest and potentially re-visiting transfer values. We will state that a connection deadline of April 2024 is not achievable and suggest it be moved to April 2025. LB will share the draft response with the Committee on 8 March 2022.

Administering authorities will need to provide data from annual benefits statements or from a recent calculation in response to a request from a member once their identity has been verified. It is not yet clear whether annual benefit statements for active and deferred LGPS members who are in scope of the McCloud remedy will need to include any figures associated with that remedy. Until the position for annual

statements is clear, it will not be possible for suppliers to start work on software developments in this area for McCloud or pensions dashboards.

KL and DM agreed that a staging deadline of April 2024 was not achievable for NILGOSC or Scottish administering authorities. Their responses to the consultation will reflect this opinion.

## PSPJO Bill

The Government made further amendments to the Public Service Pensions and Judicial Offices (PSPJO) Bill on 21 January 2022. The changes that are most important to the LGPS are:

- Redefining “remediable service” to cover members who were not in pensionable service on 31 March 2012 but were in a qualifying scheme before then. This will mean that more LGPS members are in scope of McCloud remedy protection. Some of those members will be harder to identify, particularly if their protection stems from membership of a public service pension scheme other than the LGPS. Administering authorities that chose to follow the SAB advice and collect working hours and service break data for all post-2014 members will have the information they need. Any administering authorities who collected this data only for members who were active members on 31 March 2012 will need to approach employers for data in respect of additional members now in scope of the remedy.
- Unprotected teachers with excess service will be moved to the LGPS for the remedy period in respect of that excess service. Teachers with excess service will be eligible for the Teachers’ Pension Scheme for all their service from 1 April 2022. This will mean complicated manual calculations for employers and administering authorities as they construct LGPS membership for the remedy period and arrange for the payment of the correct level of employer and employee contributions. Teachers will then have the option to complete a transfer from the LGPS back to the Teachers’ Pension Scheme.

It is the Secretariat’s understanding that the Bill is on track to receive Royal Assent by 1 April 2022. There will be a further consultation on amendments to the LGPS regulations to introduce the McCloud remedy later in the year. This is necessary because the 2020 consultation did not cover pensions tax or compensation. DLUHC intends to publish draft regulations with that consultation. The regulations will be in force from 1 October 2023 with retrospective effect from 1 April 2014.

JF asked about software suppliers' readiness for these changes and the current level of engagement with them. Joanne Donnelly [JD] confirmed that the SAB and LGA were holding regular meetings with software suppliers to keep them informed about developments. Suppliers are reticent to start any significant system developments until the final regulations are in place. JD alerted the committee to the concern about who would be meeting the cost of these developments.

KL noted the plan for SPPA to work in tandem with DLUHC so they can work to similar timescales. This should reduce the development burden for suppliers.

Kevin Gerard [KG] set out his expectations from an administering authority perspective. He expects a development and testing period of six months from 1 October 2023 during which the team will perform calculations manually. After that period, most calculations will be automated, with only the most complex requiring manual calculation or correction.

### **State Pension age**

DWP launched a second review of the State Pension age on 14 December 2021. The review is required by the Pensions Act 2014 and must be published by 7 May 2023. The Normal Pension Age in the LGPS is linked to the State Pension age. Any change in State Pension age will change the age at which an LGPS member can first access their benefits without an early payment reduction.

### **Head of Pensions**

Jeff Houston [JH] is retiring from the role of Head of Pensions at the LGA and Secretary to the Local Government Pension SAB in England and Wales on 31 March 2022.

After a competitive recruitment exercise, we are pleased to announce that Joanne Donnelly will be taking over the role from 1 April 2022. Jo previously worked at HM Treasury and is currently Senior Pensions Secretary and Deputy SAB Secretary.

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

JH presented the key points from paper C. He concentrated on three major issues that are on the agenda for the SAB meeting scheduled for the afternoon.

### **Levelling Up White Paper**

The White Paper includes the Government's intention to set an ambition for administering authorities to invest up to 5 percent of their assets in projects which

support the local area. The term “local” in this context refers to the whole of the UK, including Scotland and Northern Ireland. The proposals will only apply to administering authorities in England and Wales.

We expect to see a DLUHC consultation in the summer. The consultation will provide more detail about this proposal and cover pooling guidance and climate risk and reporting regulations.

It is not clear whether existing investments will count towards the 5 percent target, but it appears the Government is aiming for new investments of that level. JF pointed out that many administering authorities already invest in UK infrastructure. It is not risk-free for a fund to increase investment in this area if this already represents a significant proportion of their assets.

Goronwy Edwards [GE] had attended a recent regeneration meeting for North Wales. Investment in the tidal energy scheme discussed at that meeting is a project that could count towards the 5 percent target.

JH stated that the Secretariat together with the Responsible Investment Advisory Group will investigate and recommend appropriate educational opportunities for Board and Committee members in due course.

## Sharia Law

Several LGPS administering authorities have raised concerns about members opting out of the LGPS due to their religious beliefs. Some members do not believe that the LGPS is compliant with Sharia law. Employers are concerned that employees may make a discrimination claim because they do not offer a scheme that is Sharia compliant.

The SAB sought legal advice from Lydia Seymour (Outer temple Chambers) on the position for the LGPS. She has recently provided her advice in response to that request. In her view, the SAB is correct to consider this important and very complex issue. There is currently no provision that would allow an employer to offer an alternative scheme to a specific group. It may be possible to offer a defined contribution scheme, such as a Sharia-compliant scheme provided by NEST. Membership of that alternative scheme would have to be available to all employees who have opted out of the LGPS, not just those that have done so because of their religious beliefs.

JH noted that it is possible for interpretation of the Equalities Act to capture many different groups who are opposed to the investment principles adopted by an

administering authority. Phil Murphy [PM] commented that the LGPS could be weakened if employers are forced to offer multiple schemes designed to cater to different religions and beliefs. That impact could be more significant for a smaller employer.

DM pointed out that member benefits in the LGPS are not determined by investment returns. JH acknowledged that this is accepted in the unfunded public service pension schemes and that they are considered Sharia compliant. LGPS investments do not determine the level of benefits a member receives, but those investments are necessary to provide benefits, and the member may not agree with the way that money is invested.

The SAB will be asked to consider this question and whether they should seek further expert advice.

### Section 13 Report

The Government Actuary must report under section 13 of the Public Service Pensions Act 2013 in connection with the actuarial valuations LGPS funds in England and Wales. The Government Actuary has reported on compliance, consistency, solvency and long-term affordability.

The GAD report included three recommendations that propose action by the SAB:

- Look at inconsistency of methodology and assumptions used in valuations by different administering authorities. Consider whether a consistent approach needs to be adopted for academies and for assessing the impact of issues such as McCloud.
- Deficit recovery - ensure all funds' plans for deficit recovery can be demonstrated to be a continuation of the previous plan.
- Asset transfer arrangements - local authorities want to be able to sell assets and pay the income to the pension scheme but, unlike in the private sector, they are not allowed to. Some are leasing assets for this purpose instead. The Board is to review whether this practice is legal and economical.

KG suggested that it might be prudent to increase a deficit recovery period as this could mean lower adjustments in response to future changes. In JH's view, GAD is concerned about administering authorities adopting a combination of reducing employer contributions and extending the recovery period.



## Ukraine [not in report]

The SAB has asked funds for information about their exposure to Russian investments. The 16 responses received so far reveal a level of exposure of under 0.25 percent of total assets. It is very difficult to sell these assets because the Russian stock exchange is closed and there is no demand for them on other exchanges.

Richard Wenham [RW] reported receiving enquiries about investments in companies with links to Russia. Although many are withdrawing, not all of them are. JH agreed that indirect investments and passive investments may also have links to Russia. KL reported that Scottish funds have a similar level of exposure to English and Welsh funds and that most are passive or group investments.

A sanctions regime in place from 1 March 2022 will cover new investments. The SAB website will be updated to reflect any developments.

JH confirmed that administering authorities may take non-financial considerations into account when making investment decisions, if Scheme members are likely to agree with that position.

## Amendment to the PSPJO [not in report]

An amendment to the Public Service Pensions and Judicial Offices (PSPJO) Bill was passed on 22 February 2022. The amendment will introduce a power for the Secretary of State to publish guidance instructing administering authorities not to make investment decisions that conflict with the UK's foreign and defence policy. This provision has been put forward in advance of the Boycotts, Divestment and Sanctions Bill which is expected during this Parliament.

The SAB is seeking assurances that the guidance will not fetter investment committees' ability to take proper account of ESG considerations.

## 7. 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) Regulation 2018 was extended for two weeks to allow interested parties to respond fully.

Responses to the consultation raise issues concerning changes to regulations 60 and 61 which extend the powers for funds when dealing with exiting employers.

SPPA has involved their legal team to consider the underpin changes proposed in the consultation.

### **McCloud update**

Scottish Ministers intend to mirror LGPS England and Wales regulations to implement the McCloud remedy. KL expects the Local Government Pension Scheme (Transitional Provision and Savings) (Scotland) Regulations 2022 to come into force on 1 April 2023. They will be backdated to 1 April 2015.

### **Dashboard**

SPPA have also raised concerns with the DWP that the timeline for connecting with pensions dashboards will be challenging for administering authorities.

## **8. REGULATIONS UPDATE NORTHERN IRELAND**

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

### **LGPS regulations**

DM confirmed that regulations to implement the McCloud remedy in the LGPS Northern Ireland have already been drafted. Those amendments will need to be re-written to accommodate the provisions of the PSPJO Bill.

A new consultation was issued on 8 October 2021 on regulations to introduce changes to survivor benefits in response to the Goodwin and Walker cases. The regulations have not yet been laid. New legislation may be affected because of the forthcoming elections to the Assembly.

On 1 November 2021, the NI Assembly agreed a legislative consent motion for the PSPJO Bill which means the Bill will be adopted by Northern Ireland once passed in England and Wales. The motion does not apply to the recent amendment concerning investment decisions referred to earlier in these minutes.

## **9. UPDATE FROM TECHNICAL GROUP**

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

Most administering authorities have collected the data they will need to implement the McCloud remedy. They are now in the process of cleansing those returns and

raising queries with employers. Administering authorities are not yet reporting that any employers have refused to supply the data that they have requested. Some employers are having difficulties gathering the relevant information, particularly if they have changed payroll provider during the remedy period. KG expects teams to have to perform some manual calculations as a result of rule changes associated with the McCloud remedy. This additional workload will mean team expansion is needed.

KG does not believe that there has been any improvement in Prudential's performance. He welcomes the expected communications from Prudential and the SAB's efforts to resolve the issue.

Technical Group will be asking all administering authorities to report on their progress in preparation for the introduction of pensions dashboards. They hope to encourage a standard approach to common issues.

## **10. TRAINING AND CONFERENCE UPDATE**

The Committee noted the key points from paper G, which was presented by Elaine English [EE].

The governance conference was run successfully as a hybrid event on 20 and 21 January 2022. The conference was very well received with feedback showing an average rating of 4.3 out of 5. The AV team were excellent. We will be using them again for next year's governance conference in Cardiff on 19 and 20 January 2023.

The new training focus group met for the first time in January. The group, made up of representatives of administering authorities, will help to guide our training plan for the next two years. We aim to finalise and publish the training programme for the next year by the end of March 2022.

Lisa Clarkson joined the LGA pensions team in March. She will concentrate on our offering to scheme employers. This expansion of the team will help us to satisfy the demand for employer role training.

Fundamentals training for elected members is currently being organised. We intend to deliver the three training days in London, Birmingham and online.

LGPC members will be offered a complimentary place at both Fundamentals and the Conference. We will invite you to request a place once the schedule has been confirmed.

## 11. ANY OTHER BUSINESS

DM stated that the Government Actuary is planning for actuarial valuations to take climate change into account. He asked whether a SAB subcommittee could assist with coordination so that all four actuaries take the same approach in this area. JD confirmed that the Responsible Investment Advisory Group members were experts in this field. They are working on standard templates to use for this purpose. DLUHC also expects an annual report on this subject, which means that standardisation will be essential.

The Committee noted that Hymans had produced a report for Norfolk on carbon footprint. Alan Waters is happy to share that report with other members of the Committee.

DM on behalf of Northern Ireland thanked Jeff for all his valuable help over the years, particularly during the 2014/15 scheme changes. KL echoed those sentiments on behalf of LGPS Scotland. JF recognised that six million scheme members have benefited from Jeff's diligence and hard work. The Committee wished Jeff well in his retirement.

## 12. DATE OF NEXT MEETING

Meetings for the remainder of this year will be held on:

- 6 June 2022
- 10 October 2022 – date change due to Conservative Conference 3 Oct
- 5 December 2022.

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# Paper C – England and Wales update

## Key points to note

- New member website launched
- Recruitment and retention survey run
- DLUHC publish special severance payments guidance
- New documents to help deal with claims management company requests
- Guidance on the new stronger nudge requirements

## Decisions

The Committee is asked to note the contents of this report

## Summary

### New member website

We launched a new national member website and LGPS brand in March. The address of the website has not changed, it is still [www.lgpsmember.org](http://www.lgpsmember.org).

We transformed the website to improve the experience of users. It is now fully accessible to everyone and mobile friendly. The new site has:

- Simple navigation
- Easy to use tools and calculators
- Useful links, hints and tips
- Helpful videos
- New pages and updated content
- Faster and more detailed search.

### Recruitment and retention survey

We ran a recruitment and retention survey between 12 April 2022 and 3 May 2022.

The aim of the survey was to understand the extent of the recruitment and retention issue in the LGPS. This includes understanding how salary levels and homeworking contracts are contributing to the problem. We received 42 complete responses. The responses cover the administration of 57 administering authorities in total.

We shared the results of the survey with pension managers on 19 May 2022. We will not be publishing the results on our website.

### **DLUHC publishes statutory guidance on special severance payments**

On 12 May 2022, DLUHC published [statutory guidance on special severance payments](#). Best Value authorities in England must have regard to the guidance in circumstances in which it may be appropriate to make Special Severance Payments. The guidance also covers approval disclosure and reporting requirements. The guidance does not apply to authorities in Wales. You can find a list of the bodies the guidance applies to at the end of the guidance.

The guidance confirms that:

- strain cost related to the early payment of LGPS benefits under regulation 30(6) or (7) (flexible retirement, redundancy or efficiency retirement over age 55) does not constitute a Special Severance Payment
- strain cost of awarding additional pension under regulation 31 of the LGPS Regulations 2013 may constitute a Special Severance Payment, depending on the terms of the individual's contract
- strain cost related to waiving an actuarial reduction when a member retires under regulation 30(5) may constitute a Special Severance Payment, depending on the terms of the individual's contract.

DLUHC consulted on a draft version of this guidance in 2021. You can find links to the original consultation, the LGA response and the Government response on the [Scheme consultations](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

### **Stronger nudge to pensions guidance – technical guide**

On 10 May 2022, we published a technical guide on the new stronger nudge to pensions guidance requirements.

The new requirements came into effect from 1 June 2022. They require LGPS administering authorities to offer to book a Pension Wise appointment for members as part of the application process for taking in-house AVCs. The requirement also applies when a member aged 50 or over makes contact about transferring their in-house AVCs to another defined contribution scheme to access them. Members can opt out of taking Pension Wise guidance.

The Government's aim is to protect people by helping them make informed decisions when they access their defined contribution saving. Pension Wise is a government service from MoneyHelper that offers free, impartial pensions guidance about DC pension options.

### **Data subject access requests documents published**

On 11 May 2022, we published a collection of documents to assist administering authorities in dealing with data subject access requests (DSARs). The documents were requested by the National Technical Group to deal with the increasing number of requests from claims management companies relating to past transfers out.

The following documents have been produced by Squire Patton Boggs:

- guidance for handling DSARs
- procedure for handling DSARs
- template acknowledgement letter
- template response letter
- template acknowledgement letter requesting more information
- template acknowledgement and deadline extension letter.

You can find view the documents on the [Administrator guides and documents](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

### **Online pensions surgery**

On 12 May 2022, we ran our first online pension surgery. The surgery was on transfers out and was attended by 122 pension practitioners. It lasted for two hours.

Online pension surgeries provide practitioners with the opportunity to ask the LGPC team questions on a particular topic. We plan to run another pension surgery in June on the new stronger nudge requirements.

### **Contact officer**

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## Paper D – Scheme Advisory Board update

### Key points to note

Particular attention is drawn to the sections on the Queen’s Speech, SAB Forward Look Review, Section 13 Report Recommendations and the SAB annual report.

### 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).

### Queen’s speech

1. The Queen’s Speech announced a number of Bills that are of particular relevance to the LGPS:

“My government will ensure the constitution is defended. My ministers will restore the balance of power between the legislature and the courts by introducing a Bill of Rights. Legislation will prevent public bodies engaging in boycotts that undermine community cohesion” (Boycotts, Divestment and Sanctions Bill).

“A Bill will be brought forward to drive local growth, empowering local leaders to regenerate their areas, and ensuring everyone can share in the United Kingdom’s success. The planning system will be reformed to give residents more involvement in local development” (Levelling Up and Regeneration Bill).

“My government will continue to seize the opportunities of the United Kingdom’s departure from the European Union, to support economic growth..... Public sector procurement will be simplified to provide new opportunities for small businesses” (Procurement Bill).



## **Further clarification**

2. The Boycotts, Divestment and Sanctions Bill (BDS) has yet to be introduced but it is understood from the Department for Levelling Up, Housing and Communities (DLUHC) officials that it will be wider in scope than the amendment to the Public Service Pensions and Judicial Offices Act 2022 (PSPJO) introduced by Robert Jenrick MP that already enables the Communities Secretary to publish guidance or directions on investment decisions which it is not proper for the scheme manager to make in light of UK foreign and defence policy. It is expected that the BDS Bill will apply to all public bodies and to both procurement and investment and that DLUHC will not seek to use their existing power under the PSPJO Act while the BDS Bill is progressing through its Parliamentary stages.
3. The Levelling Up and Regeneration Bill has been introduced but does not include any specific provision requiring LGPS funds to publish plans to invest 5% of their portfolio in local projects. It is assumed that DLUHC will use their regulations and guidance making powers under the Public Service Pensions Act 2013 to make the necessary regulations and guidance on levelling up. Further details will be given as part of the Departments public consultation in the Autumn.
4. The Public Procurement Bill has been introduced. It is not clear at this stage whether it will impact on the way in which LGPS administering authorities procure services or award contracts.

## **Next steps**

5. The Board will enter into discussions with DLUHC and other relevant government departments to better inform its understanding of how these Bill will impact on the scheme.

## **SAB forward look review**

6. Six years on from the inception of SAB it was felt that the time was right to review the scope and role of the Board, the way in which it operates and its longer term strategy.
7. The Board met on the 21 April 2022 to discuss these issues. The Board reached a consensus that it needed to be more proactive in its activities and more forward looking. Improvements in communication with scheme stakeholders was

also seen as a key aim for the future part of which should include an annual report of the Board's activities, achievements and future workplan.

8. A paper will be prepared by the Secretariat for consideration by the Board when it next meets on the 6 June 2022.

### **Section 13 Report Recommendations**

9. The Government Actuary has been appointed by the 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

10. Section 13 requires the Government Actuary to report on whether the following aims are achieved:

- Compliance
- Consistency
- Solvency
- Long term cost efficiency.

11. GAD made four recommendations as part of the 2019 report. Three of the recommendations propose action by the SAB, these are set out below.

12. 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.

13. 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.

14. 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.

15. When it met on the 7 March 2022, the Board agreed to set up a series of roundtable meetings with DLUHC, GAD and the four actuarial firms to consider how these recommendations can be taken forward.

## SAB annual report

16. The Board's 2021 annual report is near to completion and will be launched by the Board's Chair, Councillor Roger Phillips, at the PLSA's Investment Conference on the 14 June 2022.
17. Work on completing the 2021 report has been hampered by problems associated with external audit and the delay in main local authority accounts, which include pension fund accounts, being signed off. This has resulted in many funds being unable to meet the 1 December deadline for publishing their own annual report and often relying on draft accounts.
18. The problems surrounding external audit and delay in accounts being signed off will be one of the major workstreams of the new Compliance and Reporting Committee that will also explore the benefits or otherwise of the separation of pension fund accounts from main local authority accounts as is the case in Scotland and Wales.

## Levelling up

19. Since LGPC last met DLUHC has further clarified that the aspiration of 5% investment in local projects is "as well as" existing investments in such projects. Initially, the Secretariat had been advised that it meant new investments in local projects that would have unfairly penalised those fund authorities who had abided by the Department's appeal in 2016 for authorities to invest 5% of their funds in infrastructure projects.

## Cost Management committee report - 16 May 2022 meeting

### Cost Control 2016 and 2020

20. Recommendations made by the committee to amend the Board's Cost Management Process in line with the changes being made to HM Treasury's Cost Control Mechanism (CCM) were agreed by the Board when it met on the 7 March 2022. 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.

21. We understand that the Judicial Review on the inclusion of McCloud costs in the 2016 Cost Control Mechanism will proceed either in May or June this year. Should the JR find against Government, the 2016 process could be reopened.

### **Death Grant Entitlement**

22. The committee considered whether SAB should make a recommendation to DLUHC that would amend the scheme regulations to remove the age 75 barrier to entitlement to a survivor's death grant. Other public service pension schemes have made such an amendment and the committee agreed that the LGPS should explore doing likewise.

### **Investment committee report - 23 May 2022 meeting**

23. The committee received a number of updates including the Queen's Speech, SAB Forward Look, Code of Transparency compliance, RIAG Chair's report and DLUHC regulatory update.

### **Compliance and Reporting committee report - 9 May 2022 meeting**

24. The new Compliance and Reporting committee met formally for the first time on the 9 May 2022 and discussed a range of issues including working methods, interaction with SAB and CIPFA and future workplan. The Committee's terms of reference require it to submit a workplan to SAB for approval.
25. The committee agreed to set up a small internal working group to work up a draft workplan for submission to SAB in time for it to be considered at the meeting on the 6 June 2022. The draft plan will include those workstreams that could be commenced immediately as well as those that are contingent upon action elsewhere, for example, DLUHC's public consultation on TCFD reporting expected later in the Autumn.

### **Responsible Investment Advisory Group report - 18 May 2022 meeting**

26. In addition to an update of the Queen's Speech and levelling up the Group were given the opportunity to hear from DLUHC about TCFD reporting element of the forthcoming Autumn public consultation.
27. DLUHC had earlier shared a draft template on TCFD reporting, based on private sector requirements. Similar to private sector schemes, DLUHC said that there were several broad types of metrics that LGPS funds might be asked to report against:

- Absolute carbon emissions
- Emissions intensity (emissions per unit of investment)
- An “optional” metric. This might be set by DLUHC for all funds and the current favourite was data quality, which was an area they felt it was important to make progress on;
- DWP’s recent proposal to include alignment with the Paris global temperature increase targets.

28. The Group recognised the importance of data and touched on issues such as the need not to be dazzled by spurious accuracy in the assessment of whatever metrics were reported on; how inconsistent approaches and assumptions were being used in the calculation of climate impacts; how dynamic the situation was, with varied rates of progress in different regulatory and investment jurisdictions; the need to keep under review the gap between plans and targets set by companies, and progress in delivering those plans.

### **Contact officer**

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# Paper E – Scotland update

## Decisions

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

## Summary

### **The Local Government Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations 2022**

The Local Government Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations 2022 (2022/153) were laid before the Scottish Parliament on 3rd May 2022. This SSI was laid under section 24 of the Public Service Pensions Act 2013 and includes the following:

#### **Survivor Pensions**

These Regulations change the rules for calculating pre-April 15 survivor pensions in response to two court cases: *Walker v Innospec* and *Goodwin v Department for Education*. The changes are intended to place surviving same-sex civil partners, survivors of married same-sex couples and male survivors of female married members in a similar position to female survivors of male married members.

Where the recalculation of a partner's pension causes a reduction to the rate of an eligible child's pension, administering authorities are expected to recalculate that child's pension and adjust future payments. We would not expect authorities to recoup past overpayments.

#### **Fund Authorities Flexibilities when dealing with employers**

The regulations amend The Local Government Pension Scheme (Scotland) Regulations 2018, to provide further flexibilities for fund authorities in dealing with exiting employers and allow for amendments to an employer's contribution rate between valuations.

These changes mirror those provided by The Department for Levelling Up, Housing and Communities (DLUHC) (formerly The Ministry of Housing, Communities and Local Government) for England and Wales in 2020. They are provided as a result of recommendations from the Scottish Local Government Pension Scheme Advisory Board.

## **Cost Cap Amendment**

The cost cap figure is amended from 15.5% to 15.2% in the Scottish LGPS regulations, after the Government Actuary's Department (GAD) identified an error in their original calculation. This will allow GAD to conclude the 2017 Cost Cap Valuation and is not expected to affect the outcome.

## **McCloud**

As a result of responses received, following the consultation on these Amendment Regulations, Scottish Ministers decided to address retrospective changes to 'the underpin', in respect of the 'McCloud Judgement', separately in The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2022, as consulted on in Scotland in April 2021. These regulations are expected to be made later in 2022.

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# Paper F- 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 note the content 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 v Innospec judgment. Following the consultation exercise the Department has now made the regulations most of which came into operation on 18 April 2022. A few of the regulations are retrospective and will cause some extra administration as in some cases survivor benefits or potential survivor benefits will have to be recalculated.

The key changes affecting members are as follows:

### 2014 Scheme amendments

- The 30 day rule is amended to say that contributions are only paid for absences of less than 30 days. Where the member is absent for more than 30 days they do not pay any contributions other than they wish to cover the period on their return to work (applies from 18 April 2022).
- AVCs – the 50% limit is removed from 18 April.
- Refunds – from 18 April NILGOSC may, at its discretion, pay refunds after 5 years from the date of leaving active membership. They still must be paid before age 75.



- Member ceasing to be active, then deferred and then a pensioner all in the same Scheme year – the revaluation adjustment applied at the beginning of the following Scheme year is that adjustment applicable when the retirement pension account was opened.
- Death grants – can now be paid to those aged over 75 where the death occurred on or after 1 April 2015.
- IDRPs – the time allowed for each of stage 1 and stage 2 is increased from two months to four months.
- Forfeiture – removes the requirement that the member must have left their employment because of the offence. This solves the problem where usually employers find out about the offence after the member has left.

### **2014 Amendment and Transitional Regulations**

- Survivor pensions – with effect from 5 December 2005
  - the calculation of the survivor pension for a civil partner is on the basis the survivor is a spouse
  - References to contracted out membership are to be read as including contracted in membership
  - Cohabiting partner pensions continue to be based on membership built up after 5 April 1988
  - Post-leaving marriages or civil partnerships now take account of membership after 5 April 78 for survivor benefits
  - Female members with pre-leaving marriages who had service between 6/4/78 and 5/4/88 and left membership between 6/4/88 and 31/7/2000 – the male survivor pensions will now include the pre-88 membership where the date of death was on or after 5/12/2005 or the member is still alive.

### **2009 Scheme amendments**

- The definition of fluctuating emoluments is amended to allow these to be always averaged over 3 years for the purpose of final salary pay rather than averaging them over the period they were paid if this is less than three. This applies from 18 April 2022.

### **Trade union legal action**

We have little detail but understand the NIPSA members have taken pre-tribunal action against 370 LGPS and other Public Sector employers based around the 2015 changes to the public service pension schemes and the McCloud judgment.

According to NIPSA's own publications the action is for injury to feelings compensation arising from the McCloud judgment of illegal age discrimination within public service schemes.

## **Governance**

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

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# Paper G – 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 11 March 2022 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.

### DLUHC update

DLUHC provided updates on the possibility of removing contribution bands from the regulations and placing in guidance, this would enable contribution bands to be

amended without the need for legislation. DLUHC were also aware of the difficulties administering authorities were experiencing with the recruitment and retention of staff.

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

POGs requested template documentation to deal with the increase in queries from Claims Management Companies. Guidance and template letters were issued by the LGA on 11 May 2022.

### **Prudential's performance**

Despite assurances contained within the Prudential letter dated 29 April 2022, which was after the Technical Group meeting, poor customer service continues with no improvement experienced. Scheme members are still forced to wait extended periods for payment of pension and AVC benefits.

### **Pensions Dashboards**

DWP and the Money and Pensions Service (MaPS) delivered a presentation at the meeting. They confirmed they plan to publish their response to the recent consultation in June 2022 and have regulations approved in the Autumn of 2022. Technical Group collectively expressed concerns about a meeting the proposed connection deadline for the LGPS whilst also undertaking the McCloud project.

### **Transfers out**

Concerns were expressed by members that it appears a pensions company is completing the 'member discharge form' to transfer out from the LGPS including using the member's digital signature.

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## Paper H – Training and conference update

### Decisions

The Committee is asked to note the contents of this report

### Fundamentals Training

Our 2022 Fundamentals training is now open for booking. Fundamentals is a bespoke three-day training course aimed at elected members and others who attend pension committees/panels and local pension boards. Each day has a different theme and includes sessions delivered by experts in their field.

The training will be held at two face to face venues – London and, for the first time, Birmingham as well as an online only event. Speakers are being contacted and the venues have already been secured.

The Committee is reminded that LGPC elected members are offered complimentary places on the training. Please email [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk) if you would like to attend.

### Annual conference – save the date

Our annual governance conference will be taking place in Cardiff on 19 and 20 January 2023. LGPC elected members are offered complimentary places.

### Annual training programme

We published our [2022 training programme](#) in March. Bookings have been very good for the online events, though face to face courses are proving not as popular.

We are currently running transfers and employer role training courses. Scottish aggregation and transfer courses have already taken place. An annual allowance tax course is being planned for later in the year.

Insight, the introductory course for practitioners, has been run in Blackpool on two occasions this year with two further courses planned - one online in July and one in Eastbourne in September. These courses have proved very popular.

## **New employer post**

Lisa Clarkson joined the team on 7 March and is now beginning to run and develop our Employer courses.

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