

## Paper A: Minutes of meeting held on 11 March 2024 - Hybrid

### PRESENT

Cllr Nathan Yeowell	Chair, LGA
Cllr John Fuller	LGA
Cllr Richard Wenham	LGA
Cllr Doug McMurdo	LGA
Cllr Deirdre Costigan	LGA
Cllr Eddie Reeves	LGA
Cllr Michael Headley	LGA
David Murphy	NILGOSC
Kimberly Linge	SPPA
Linda Welsh	SPLG
Alan Wareham	DLUHC
George Graham	SAB representative
Alan Wilkinson	SPPA
Kevin Gerard	Technical Group representative

### Secretariat

Lorraine Bennett	LGPC
Joanne Donnelly	Scheme Advisory Board (SAB)
Rachel Abbey	LGPC
Daniella Howell	LGPC
Karl White	LGPC

### 1. INTRODUCTION FROM THE CHAIR

The Chair, Cllr Nathan Yeowell [NY], welcomed everybody to the hybrid meeting and asked those attending to introduce themselves.

On behalf of the Committee, NY congratulated Cllr John Fuller [JF] on his appointment to the House of Lords.

## 2. APOLOGIES

Apologies for absence were received from Cllr Bev Craig and Cllr Vince Maple. No declarations of interest were made.

## 3. MINUTES

The minutes of the previous meeting held on 4 December 2023 were agreed as a true and correct record.

## 4. MATTERS ARISING

NY stated there were no matters arising to raise.

## 5. LGPC BUDGET

Joanne Donnelly [JD] presented the key points from the first part of Paper B.

### **Restructure of the LGPC secretariat team**

The LGA pensions team has continued to grow over the last few years, and there has been growing demand for its services, and for training in particular. The increase in demand has led to additional posts being created. JD is proposing a re-grading of the existing team. The reasons for this include:

- to accurately reflect the skills and technical expertise required to be a pensions adviser
- to align the grading structure of the team with other teams at the LGA, which have similar levels of expertise
- the need to keep pay competitive in line with adviser and officer pay at LGPS funds which has increased due to wage inflation since COVID
- to acknowledge the vital support services the team provides to DLUHC and SPPA, as shown by the secondment of a team member to DLUHC to help to deliver the McCloud remedy regulations in 2023.

The pensions team recognises that it is important to have competitive salaries that properly reflect the skills and expertise of the team.

Redrafted job descriptions are currently being assessed by HR. JD expects HR to confirm that the redrafted job descriptions and additional responsibilities are sufficient to warrant the proposed re-grading.

## Subscriptions 2024/25

Lorraine Bennett [LB] presented the key points from the confidential second part of paper B.

LB explained that the team's budget is funded by a subscription that all LGPS administering authorities pay and training income.

The proposal is for an increase of five percent to the LGPC subscription charge for 2024/25. The pay award to apply from 1 April 2024 has not yet been agreed. The subscription increase is based on an assumed pay award and also reflects the cost of the team's re-grading.

There is a projected deficit for the 2024/25 year. But that is in part due to the one-off cost of building new LGPS administrator websites for England and Wales, and Scotland planned for this year.

Subscriptions are based on the number of members in a fund, with Scotland paying a higher rate for an enhanced service.

The reserves would cover the termination costs of the team. Those costs have decreased because of the departure of a long-standing employee in 2023/24.

## Committee decision

Cllr Doug McMurdo [DM] asked whether LGPS administering authorities use the pay rates set out in the Green Book. JD confirmed that most do, but many administering authorities are paying additional allowances to experienced pension staff. It is not straightforward to rely on the Green Book for salary comparisons.

The Committee approved:

- the re-grading of the LGPC team, subject to approval from the LGA HR team
- an increase of five percent to the subscription charge for 2024/25.

The Committee raised some additional points about the re-grading and the increased subscriptions:

- JF stated that we need a strong narrative in favour of the increase. The LGPC team is increasingly holding the institutional memory of the LGPS. A strong narrative could be a necessary insurance to keep the scheme running at a technical level.

- George Graham [GG] asked whether there were enough team members, the demand for training is apparently insatiable. Increasing the number of trainers could be self-financing because of the potential to increase income.
- The Committee expressed their concern about the secondment in 2023, and the fact that local government money was essentially being used to deliver central Government responsibilities. The Committee believes that the LGA team should take a stronger line with DLUHC should they continue to rely on LGA resources to perform central Government's role.
- NY identified the need for forward planning to assess future growth in demand and for income from training and conferences. This will feed into future subscription increases and possible expansion of the team. A subgroup of Committee members and representatives of the Secretariat will form to make a medium-term plan for 2025 to 2028.

JD confirmed that she will continue to have robust conversations with DLUHC about subsidising the Department's work, although she is not optimistic about the outcome of those conversations.

LB confirmed that the Secretariat continues to support DLUHC and their lawyers in regular meetings. Early discussions about policy changes and the opportunity to review draft legislation allow the team to help shape policy and make sure the changes meet the needs of administrative authorities, employers and LGPS members. JD highlighted that the team would be scrutinising proposals at the consultation stage anyway.

## 6. REGULATIONS UPDATE ENGLAND AND WALES

LB presented the key points from Paper C.

### McCloud Update

LB explained at the last meeting what the McCloud remedy is, what resources the team has produced so far, and some of the impacts that it is having on administering authorities. Legislation was put in place from October 2023 to introduce the McCloud remedy which aimed to remove age discrimination from the LGPS.

### Statutory Guidance

DLUHC has been working with an implementation group to bring forward statutory guidance to help implement the remedy in a consistent way across all LGPS administering authorities.

DLUHC published draft guidance on 1 March 2024 which covers:

- case prioritisation
- how to identify members in scope of protection
- how to deal with complexities of past transfers
- governance and data collection
- qualifying scenarios.

The section on qualifying scenarios confirms the department's view on deferred refunds and transfers out of deferred benefits, and how these affect underpin protection. The Department's view means that there are some circumstances when a member's protection status could change.

DLUHC's interpretation means that:

- a member who appears not to be protected may become protected if a deferred refund is later aggregated with benefits built up in a different public service pension scheme
- a member who appears to be protected could lose that protection if a deferred benefit is later transferred to a pension scheme that is not a public service scheme.

LB has requested an independent legal opinion on the department's interpretation from the legal firm that advises the Scheme Advisory Board [SAB].

The closed consultation on statutory guidance ends on 12 April 2024. The LGPC team will respond on behalf of the Committee after they have received the legal opinion. DLUHC has asked for each pension officer group to submit a response on behalf of their region.

GG asked if it would help if responses from regional groups supported the LGA response. LB confirmed that it would.

### **New GAD Guidance**

GAD published new guidance in January on early and late retirement and transfers. The guidance has been updated to include the impact of the McCloud remedy. More guidance on flexible retirement, divorce calculations, and trivial commutation is expected. The team is having regular meetings with GAD and will review draft versions of this guidance.

## **Transfers**

Certain transfers had been on hold awaiting transfer guidance, which has now been published. However, pension software systems have not yet been updated to reflect the new guidance. LGPS funds are having to perform manual calculations as they wait for system updates.

The team has produced a spreadsheet to help funds calculate the McCloud element of a transfer value for transfers to private sector schemes. Transfers between public service pension schemes are much more complicated and it will not be possible for the team to produce a calculator for these cases. Software suppliers have indicated that it may take up to six months to programme the changes.

## **Tax treatment of interest**

Special interest rules will apply when pension schemes make extra payments to members because of the McCloud remedy. HM Treasury rules mean that all public service pension schemes must pay interest at eight percent on certain payments. HMRC has confirmed that interest above the 'commercial rate' will be an unauthorised payment. There will be an unauthorised payment charge of 40 percent. There would usually be a further 15 percent scheme sanction charge, but we expect legislation to disapply this further charge. GAD is currently working on a calculator to assist administering authorities with these complex calculations.

## **McCloud administrator guide and webinars**

The team has already published the first instalment of the McCloud guide for administrators. The team is working on the next two instalments which will deal with lump sum payments such as death grants and trivial commutation lump sums, and retrospective cases.

The team ran two McCloud webinars in December 2023. 270 people attended across the two webinars and the feedback from both was very good. The team will deliver further webinars after they publish the next instalment of the technical guide.

## **TPS McCloud remedy and the LGPS**

As part of the TPS McCloud remedy, some teachers will be rolled back retrospectively into the LGPS. The legislation to deliver this is not yet in place. The LGPC team is working with DfE, DLUHC and TPS on this project to get a workable process.

Alan Wilkinson [AW] asked about the expected number of cases. TPS has identified 18,000 members in this group in England and Wales. Early reactions from employers

who have received their data from TPS suggest that numbers may be lower due to data issues. AW believes the number of cases in Scotland will be much lower.

GG expressed concern about the availability of employer data, and who would be responsible for providing that data on behalf of an employer that no longer exists.

### **Abolishing the lifetime allowance**

The Government is abolishing the lifetime allowance (LTA) from 6 April 2024. However, there will be two limits on the amount of tax-free cash that individuals can take from all their pensions. The team is currently working with Aon, one of the actuarial firms, on a guide for administering authorities. The lead-in time to introduce this legislation was very short. The team is hoping to publish the guide as soon as possible to help administering authorities navigate the changes.

### **Annual revaluation and pensions increase**

All public service pensions in payment will increase by 6.7 percent on 8 April 2024. This is based on the CPI rate from September 2023. Active LGPS CARE accounts will also increase by 6.7 percent in April 2024.

The team will update their employer, member and administrator guides, and the member websites in the coming weeks to reflect the annual increase and the removal of the lifetime allowance.

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

Joanne Donnelly [JD] presented the key points from paper D.

### **Cost Control Mechanism**

This is a quadrennial (4 yearly) scheme valuation that is conducted by GAD and governed by HM Treasury Directions. In other public sector schemes, the valuation is used to set employer contribution rates. This is not the case for the LGPS, but the cost control mechanism is used to ascertain whether the cost of the scheme remains within certain limits, based on a set of assumptions.

Scheme changes would be triggered if the cost of the scheme deviates by more than three percent from the target cost. This was increased last year from two percent. All public service schemes have breached the cost 'floor' - the cost of the schemes are more than three percent lower than they were predicted to be in 2012/13. However, HM Treasury introduced an economic check based on the performance of the economy to the process. Higher scheme costs arise because of the economic check.

As a result, no schemes have breached the cost 'corridor' and there will be no change to scheme benefits or contributions.

The SAB runs a separate cost control process based on slightly different assumptions. The results of the SAB process show that the LGPS in England and Wales is one percent above the target cost. At this level, the SAB could recommend Scheme changes, but they are not required to. The SAB Secretariat will not be recommending Scheme changes to reduce costs. The Board will make a final decision at their next meeting.

The valuation also checks how contributions are split between members and employers. The results indicate that no changes are needed to meet the target one third / two thirds split.

David Murphy [DM] asked about the legal challenge to the inclusion of costs relating to the McCloud remedy in the valuation process. We are currently waiting for the Court's decision. If the unions' challenge is successful, this could mean scheme changes backdated to 2020. JD expects the Government would take the case to the Supreme Court if they were to lose at this stage.

### **Gender pensions gap**

The SAB is working with GAD on the gender pensions gap and hopes that other public sector schemes will also pick this up. The SAB will be delivering a webinar on the gender pay and pensions gaps with the LGA workforce team. The webinar will be aimed at employers and will encourage them to include pensions in discussions with employees who are considering reducing their hours or taking a career break.

The SAB is also interested in patterns of employees opting out of the LGPS. Administering authorities do not hold information about protected characteristics such as ethnicity or disability as these are not relevant to pension calculations. Systems changes would be needed if administering authorities are to collect this data and there would be data protection considerations.

### **Sharia compliance and the LGPS**

The SAB commissioned a report from an Islamic scholar on whether membership of the LGPS is Sharia compliant. The report concluded that it is because members' benefits are guaranteed, they are not determined by investment performance. The SAB hopes that members who have opted out because of their religious beliefs will now choose to re-join the Scheme.

The SAB has received further Counsel advice following the receipt of the report and is deciding how best to share that advice. The team is also seeking legal advice on



the likelihood that a legal challenge from a member who does not consider the LGPS to be halal would be successful.

## **Administration and governance issues**

### **Annual report guidance**

The Compliance and Reporting Committee (CRC) has been working over the last year and a half to update the annual report guidance. This has now been approved by the CIPFA board and will be approved by the SAB at their afternoon meeting. The guidance will be published once it has Ministerial approval, which is expected to be before the end of March. The additional requirements in the guidance will be on a 'best endeavours' basis for the first year. The report guidance will be easier to follow. It will also result in increased transparency with improved consistency in reporting investments. This will make it easier to compile the scheme annual report.

### **The Pensions Regulator's New General Code**

The Pension Regulator's new general code will come into force on 27 March 2024. The single code will replace the current ten separate codes. The SAB team is digesting the lengthy document and will publish guidance for administering authorities. That guidance will set out which provisions are binding, recommended or best practice in relation to the LGPS.

### **Funding Strategy Statement (FSS) Guidance**

The CRC will be updating the funding strategy statement guidance. A working group has been set up and aims to publish a new version of the guidance in time for the next round of valuations in England and Wales in 2025.

### **LGPS fund audit**

Audit problems continue to affect administering authorities in England. The SAB has scheduled the next round table event for stakeholders in April. The SAB has also commissioned a report from the ICAW for practitioners, so they know who to ask for certain information.

The SAB raised concerns about backstop dates in its response to the consultation on this issue. Their key recommendation is to separate pension accounts from authority accounts. Primary legislation would be required to do this.

## **Investment Issues**

### **Economic Activity of Public Bodies (Overseas Matters) Bill**

The Economic Activity of Public Bodies (Overseas Matters) Bill was brought to parliament last summer and is now at the House of Lords Committee stage. The

SAB has been working with LGA colleagues to recommend amendments, but the Government has rejected all amendments so far. The SAB is limiting its recommendations to those that would most benefit the LGPS.

Cllr Doug McMurdo asked if the SAB would share the recommended amendments. JD confirmed that they were concentrating on technical amendments relating to the enforcement regime, and to introduce more flexibility where the current wording is too restrictive. JD agreed to share the SAB paper on the recommended amendments with the Committee.

### **Pooling consultation**

The Government has published its response to the pooling consultation. There is a strong push towards pooling all assets by March 2025. The consultation response also confirms that there will be fewer pools in future, which does not help to persuade administering authorities to move assets to pools.

## **8. REGULATION UPDATE SCOTLAND**

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

### **LGPS (Scotland) (Amendment) Regulations 2024**

These regulations were laid in the Scottish Parliament on 8 February 2024 and will come into force on 31 March 2024. The main effect is to change the revaluation date to 6 April in line with changes made to the LGPS in England and Wales in 2023.

### **GAD transfer guidance**

GAD has now published transfer guidance for Scottish funds which has been shared with administering authorities.

### **Exit credits**

The regulations have been changed to mirror the provisions for exit credits in the England and Wales LGPS. Some employers who had debits at the last valuation are now exiting the Scheme with large exit credits.

### **Increase to Public Service Pensions**

A circular has been sent to Scottish administering authorities about the public service pensions increase.

## Updated ill health guidance

The ill health guide has been updated in response to recommendations from stakeholders. This is with the communications team to be uploaded to the website. Once published, SPPA will issue a circular.

## 9. REGULATIONS UPDATE NORTHERN IRELAND

The Committee noted the key points from paper F, which was presented by David Murphy [DM]. DM mentioned that a lot of the issues affecting England and Wales, also affect Northern Ireland.

### Northern Ireland LGPS Regulations

NILGOSC has not received its cost control report yet.

Government has been restored in Northern Ireland and the new Minister for Communities is reviewing whether there is a need for a scheme administrator within Northern Ireland, could the Scheme be administered without NILGOSC? They await the final report.

## 10. TECHNICAL GROUP UPDATE

Kevin Gerard [KG] presented the key points from Paper G.

### McCloud remedy

Administering authorities are continuing to focus on reconciliation and rectification of records.

KG acknowledged the support funds have received from the LGPC and SAB and passed on his thanks to JD and the LGA team.

## 11. TRAINING AND CONFERENCE UPDATE

Karl White [KW] presented the key points from Paper H.

Fundamentals training for members of pension committees and boards, and officers with responsibility for governance was well received. The events were delivered in person and online.

The annual governance conference took place in York on 18 and 19 January 2024. 173 delegates attended, with around one third joining online and two thirds attending in person. The feedback was very good and the team is taking on board

recommendations for improvements. Next year's governance conference will take place on 30 and 31 January 2025 in Bournemouth.

The training programme for 2024 has been announced and demand is high. Most courses will be delivered online, but the regional groups have been asked to consider commissioning in person training. The capacity on employer role training has been increased to 18 to reach more employers.

The team is currently writing course materials for an LGPS-specific Level 3 qualification - the equivalent of an A level. PMI will facilitate this course.

There will also be a pilot level 2 qualification that is not LGPS specific, facilitated by Barnett Waddingham. 18 students have signed up to the pilot which starts in April. If the pilot is successful, the team will promote the training more widely.

## **12. ANY OTHER BUSINESS**

No other business was raised.

## **13. DATES OF NEXT MEETINGS**

Future meetings will be held on 22 July 2024 and 25 November 2024.