

EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT PENSION SCHEME (MISCELLANEOUS
AMENDMENTS) (MEMBER BENEFITS) REGULATIONS 2026

2026 No. 226

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government (MHCLG) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Alison McGovern, Minister of State at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Michelle Warbis, Deputy Director for Local Pensions at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Ben Lavelle at the Ministry of Housing, Communities and Local Government can be contacted by email at the following address with any queries regarding the instrument: lgpensions@communities.gov.uk. Alternatively, the department can be contacted by telephone: 0303 444 0000.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The instrument makes changes to the Local Government Pension Scheme in England and Wales (the LGPS), a funded, defined benefits public service pension scheme managed centrally by the Ministry of Housing, Communities and Local Government and delivered locally by administering authorities. The members of the LGPS either work in or adjacent to local government and the benefits they are eligible for are set in legislation.
- 4.2 The changes made by this instrument relate to the benefits payable to LGPS members, in broad “themes” including survivor benefits, death grants, the gender pension gap, the abolition of the lifetime allowance, the ‘McCloud remedy’, and others. Across those changes, the instrument:

Survivor benefits

- equalises, on the basis of sex and sexual orientation, the calculation of the benefits that survivors of LGPS members are due on member death;
- formally removes the need for a signed nomination form for the eligibility of cohabitants for survivor benefits;

Death grants

- removes an age cap of 75 on the eligibility of survivors of members for the one-time payment of a death grant;
- removes restrictions on to whom a death grant must be paid when paid over 2 years after a member's death;

Gender Pension Gap

- makes unpaid authorised absences under 15 days automatically pensionable;
- makes all periods of unpaid additional maternity, adoption and shared parental leave pensionable, at no cost to the member taking the leave;
- sets the cost of buying additional pension to cover unpaid leave of 15 days or more to equal the cost to the member should they have not gone on unpaid leave;
- requires administering authorities to report on the Gender Pension Gap (the difference in pension accrual between male and female members);

Abolition of the lifetime allowance

- removes references to the Lifetime Allowance on pension benefit crystallisation and updates the definition of a Benefit Crystallisation Event;

McCloud Remedy

- resolves issues with the operation of the McCloud remedy (a remedy applied to public service pension schemes to remove age-based discrimination);

Other changes

- clarifies minor amendments made by a previous S.I.;
- includes Combined County Authorities as Scheme Employers in the Regulations, confirming that they must provide LGPS membership to eligible employees.

Where does the legislation extend to, and apply?

- 4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

Survivor benefits

- 5.1 The intention of the government is that the changes in this section ensure that when an eligible member dies, the entitlement of their survivors to a pension is not affected on the basis of their sex or sexual orientation.
- 5.2 When an LGPS member dies, their surviving spouse, civil partner or cohabiting partner may be entitled to "survivor benefits" (a pension and/or lump sum). The instrument equalises the entitlement to a survivor pension of the surviving spouses or civil partners of members, by uplifting the entitlement in each case to the most generous comparable group. This eliminates any differential treatment on the basis of the sex or sexual orientation of a member or their survivor and maintains the government's commitment to equality and fairness in the LGPS.

- 5.3 The change applies to all future payments, and is also backdated to the date that a member's eligibility first arose in legislation i.e., to the date that their relationship type was first recognised in British law. That is 5th December 2005 in the case of opposite-sex marriages and same-sex civil partnerships, 13th March 2014 in the case of same-sex marriages, and 31st December 2019 in the case of opposite-sex civil partnerships. The application of backdating to those dates has been chosen as it ensures a fair and consistent approach that both remedies the previous underpayment of pensions and does not confer benefits to survivors of relationships for periods where their relationship was not recognised in law. This changes the calculations to be made by administering authorities for the payment of future survivor pensions benefits in future, and requires administering authorities to make backdated payment of previously paid survivor pensions.
- 5.4 The instrument also formalises the removal of the requirement that certain cohabitee survivors of members must have been nominated to be eligible for survivor benefits. The understanding of government is that the nomination requirement has been disappplied in practice by administering authorities, but where administering authorities have not disappplied the requirement, they are required to now do so. This change provides clarity to administering authorities and survivors of cohabitees on the entitlement of cohabitees to survivor pensions.
- 5.5 The instrument makes two additional, and minor, changes to the rules around survivor pensions:
- The instrument removes references to “cohabiting partner’s rights to guaranteed minimum pensions” to more closely align with the rules around guaranteed minimum pensions in the Pension Schemes Act 1993 (as cohabiting partners are not entitled to guaranteed minimum pensions under that Act). This does not impact the entitlement of any member or their partner.
 - Where an LGPS member dies, their surviving children may also be entitled to a survivor’s pension if they meet certain eligibility requirements, defined in the Regulations. The instrument clarifies some of the rules that related to the payment of short-term pensions to such surviving children under the earlier LGPS schemes, to ensure that the pension ceases to be payable if the children cease to meet those eligibility requirements (and enable administering authorities to avoid making unauthorised payments).

Death Grants

- 5.6 The intention of the government is that the changes in this section ensure that when an eligible member dies, the receipt of a death grant (a one-off payment) by their survivors is not affected on the basis of their age or by the time it takes an administering authority to make payment.
- 5.7 The instrument removes the age 75 limit on eligibility for a death grant, allowing death grants to be paid to survivors of members who die over the age of 75. This removal is applied to all deaths on or since 1 April 2014, with administering authorities required to make payments to eligible survivors. Backdating to 1 April 2014 applies the change in the same manner as it was applied in the LGPS for Northern Ireland, i.e. at the date at which the current version of the Scheme came into force.
- 5.8 A death grant is paid to the nominees, dependents, relatives or personal representatives of a deceased member, dependant on the LGPS Regulations. This instrument provides that a death grant paid more than two years after a member has

died can be paid to a member's beneficiaries, subject to the discretion of the administering authority. Previously, the Regulations required administering authorities to make payment of those death grants to personal representatives, which subjected them to a tax treatment that overriding legislation did not require. The change applies to all death grants not paid at the time of the instrument coming into force, preventing a two-tier approach to the payment of death grants and the significant administrative burden this would place on administering authorities.

Gender pension gap

- 5.9 The intention of the changes in this section is to meaningfully progress the closing of the gender pension gap in the LGPS. This is achieved by three changes that make it easier for members to buy back pension for unpaid periods of leave, as these gaps in pension provision disproportionately affect women:
- The instrument makes unpaid authorised absences of fewer than 15 calendar days automatically pensionable. This replaces the previous rules, where the member had to choose to buy back the pension "lost". As women more commonly take periods of short unpaid leave e.g., to care for children, this aims to reduce the pension accrual unintentionally "lost" by women in those periods of short unpaid leave.
 - For unpaid authorised absences of 15 days or more, the instrument aligns the cost of buying additional pension with the contributions that the member and employer would have paid if the member had not been on unpaid leave. This ensures that members returning from such absences, such as time off for caring responsibilities, do not pay more than they would have done if they had not been absent. The instrument also changes the time limit for buying back that pension from 30 days to 1 year (or the date a member leaves employment if sooner). This gives members more time to understand their options for buying back "lost" pension.
 - The instrument provides that unpaid additional maternity leave, adoption leave and shared parental leave is automatically pensionable, with no contributions payable by the member. Over time, this aims to reduce the gender pension gap by helping women not experience "lost" pension accrual from childbirth.
- 5.10 The instrument introduces mandatory gender pension gap reporting. Administering authorities are required to report the gender pension gap, categorised by employer groups, on a triennial basis. This is a first step in ensuring the gender pension gap can be properly measured and tracked in the LGPS.

Abolition of the lifetime allowance

- 5.11 The instrument modifies the LGPS Regulations to align with changes in overriding legislation to the amount of pension an individual can receive in their lifetime. To achieve this, it:
- removes references to the Lifetime Allowance ("LTA") and LTA charge (a limit and associated charge for exceeding it, that applied to the total amount of pension an individual could receive over their lifetime);
 - updates the definition of a Benefit Crystallisation Event (when a member's entitlement to pension is turned into actual benefits e.g., a lump sum taken on retirement);
 - allows for the issuing of guidance on the treatment of Pension Commencement Excess Lump Sums (an allowance for individuals who had already received

significant pension amounts to take lump sums from their pensions at their marginal tax rate) to be issued by the Government Actuary's Department.

McCloud remedy

- 5.12 The instrument updates the LGPS Regulations to fix issues with the operation of the McCloud remedy, identified now that administering authorities have started to implement the remedy. The McCloud remedy is how the LGPS addressed *McCloud v Lord Chancellor* [2018] EWCA Civ 2844, which found that changes made in 2014 and 2015 had unlawfully discriminated against younger members on the grounds of age.
- 5.13 The instrument modifies how LGPS benefits are shared in divorce. Where a pension sharing order is made in the context of a divorce, a pension debit (i.e., pension taken from a member to go to their ex-spouse or former civil partner) and a pension credit (i.e., pension received by an ex-spouse or former civil partner) are created. The instrument makes clear that any additional pension from the McCloud remedy, for members with a pension sharing order dated before 1st October 2023, must be shared with the ex-spouse or former civil partner. This aligns the LGPS with overriding legislation, particularly by requiring the amount of a pension debit to be the same as the amount of the corresponding pension credit.
- 5.14 The instrument corrects an unintended oversight in respect of members who died on 30th September 2023, whose survivors were not covered by existing wording.
- 5.15 The instrument clarifies the rules on interest on payments under the McCloud remedy in specific cases: transfer of pension benefits within the Public Sector Transfer Club, compensation payments where a member has incurred a "Part 4 tax loss"¹, and in cases of pension credit (as above).
- 5.16 Finally, the instrument provides for an underpin date for members who join the LGPS after reaching the age of 65 and are eligible for the McCloud remedy because they had transferred-in service from another public service pension scheme which was in scope of the remedy.

Other changes

- 5.17 The instrument clarifies the drafting of amendments to the 2013 Regulations previously made by the Local Government Pension Scheme (Amendment) Regulations 2023, which made changes to the date on which revaluation adjustments were applied to the LGPS to align this with the personal tax year rather than the Scheme year.
- 5.18 The instrument updates the provision of the 2013 Regulations which relates to members' rights to transfer their pension out of the LGPS to ensure that this explicitly covers the basis on which pension credit members can request a transfer.
- 5.19 The instrument adds Combined County Authorities (CCAs) to the list of Scheme Employers in Part 1 of Schedule 2 to the 2013 Regulations. This requires CCAs to offer LGPS membership to all of their employees.

¹ A Part 4 Tax loss may occur where a member may have overpaid annual allowance or lifetime allowance charges as a result of McCloud remedy.

What was the previous policy, how is this different?

Survivor benefits

- 5.20 The current version of the LGPS (established 1 April 2014) already calculated survivor pensions in the same way for all surviving partners. However, earlier versions did not, and so the survivors of members with service before 1 April 2014 were treated differently depending on their sex and relationship type. Similar provisions in the Teachers' Pension Scheme were accepted to be discriminatory in the Employment Tribunal case of *Goodwin v Secretary of State for Education* (case number 1308506/2019) in 2020, and the Government committed to addressing these issues in all public service pension schemes ([Written statements - Written questions, answers and statements - UK Parliament](#)²). That differential treatment is now eliminated and pre-2014 service is treated equally on that basis.
- 5.21 The cohabitee survivor pension nomination requirement noted above was introduced to the LGPS on 1 April 2008 and removed on 1 April 2014. Following the decision of the High Court in *R (on the application of Elmes) v Essex County Council [2018] EWHC 2055*, the requirement as it applied to member deaths between 1 April 2008 and 31 March 2014 was removed in practice, but not legislation.

Death grants

- 5.22 As noted above, death grants could not be paid to the otherwise eligible survivors of members who died over the age of 75. That age cap is now removed and those survivors are no longer excluded from eligibility.
- 5.23 Previously, if an administering authority did not pay a death grant within two years of the date of a member's death (or, if later, the date the administering authority could reasonably have been expected to be aware of the member's death), they were required to pay it to the member's personal representatives. This had tax consequences, as a death grant payment to a member's beneficiaries is subject to tax at the recipient's marginal rate, whereas a death grant payment to personal representatives is subject to a special lump sum death benefits charge, with the cost to the recipients likely being greater. This instrument removes that restriction and allows for payment to be made to a member's beneficiaries.

Gender pensions gap

- 5.24 Regarding pension for unpaid periods of leave, the 2013 Regulations required a member to elect to "buy back" pension, by entering an additional pension contribution arrangement. Now, certain types of unpaid leave are automatically pensionable (under 15 days, unpaid additional maternity, adoption and shared parental leave) and the cost and time of "buying back" that pension is changed.
- 5.25 There was no previous requirement for gender pension gap reporting.

Abolition of the lifetime allowance

- 5.26 The LTA limited the amount of pension an individual could receive over their lifetime before incurring tax, at £1,073,100. When the LTA was exceeded, the LTA charge then applied to pension received, at a rate of 55% on amounts taken as a lump sum and 25% on amounts taken as pension. The Finance Act 2024 abolished the LTA and LTA charge and replaced them with the Lump Sum Allowance and Lump Sum and Death Benefit Allowance. The Act, which this instrument aligns the LGPS with, also

² <https://questions-statements.parliament.uk/written-statements/detail/2020-07-20/hcws397>

introduced PCELS; made provision for public service pension schemes to decide whether to allow PCELSs to be paid from their scheme and whether a limit should apply to the amount that could be paid; and updated the definition of a Benefit Crystallisation Event.

McCloud remedy

- 5.27 The 2023 LGPS Regulations did not properly provide for the way in which pension credits and pension debits relating to were treated in relation to the McCloud remedy, for pension sharing orders dated before 1 October 2023. They did not provide for the corresponding increase to the pension debit and did not expressly provide what would happen when either the pension credit member or pension debit member died, transferred-out their benefits or took a commutation payment before 1 October 2023.
- 5.28 As noted above, the 2023 Regulations unintentionally excluded the survivor pension payable in respect of members who died on 30 September 2023.
- 5.29 The 2023 Regulations previously required administering authorities to “take reasonable steps to pay interest in respect of the amount to be paid to the scheme under regulation 10(5) (transfers out)” and did not cover Part 4 tax losses.
- 5.30 As noted above, the 2014 Regulations did not provide a mechanism for members who transferred benefits that were subject to the McCloud remedy into the LGPS from another public service scheme after reaching the age of 65.

Other changes

- 5.31 CCAs were established by the Levelling-up and Regeneration Act 2023, with the Act detailing the requirements for, and purpose of, CCAs. Broadly, CCAs support devolution in rural upper tier areas, allowing for collective decision-making between councils, across boundaries. Whilst it was always the Government’s intention that CCAs should be Scheme Employers for the purposes of the LGPS, consequential regulations made at the time the first CCAs were established failed to make the necessary changes to add them to the list in Schedule 2 to the 2013 Regulations. CCAs have been able to identify alternative routes for offering LGPS membership to eligible employees, but the changes made by the instrument (which are backdated to the day on which the first CCA was established) clarify the position and put it beyond doubt that all CCAs must offer membership of the LGPS to all their employees.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The rules relating to the current version of the LGPS, which apply from 1st April 2014, are set out in the Local Government Pension Scheme Regulations 2013 (S.I. 2013/2356, as amended – “the 2013 Regulations”). The rules of earlier versions of the LGPS continue to apply in relation to service accrued before 1 April 2014, with modifications, under the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (S.I. 2014/525, as amended – “the 2014 Regulations”).

Survivor benefits

- 6.2 The equalisation of survivor pension entitlement is achieved through amendments to the 2014 Regulations which modify the earlier LGPS Regulations, insofar as they continue to have effect in relation to service accrued before 1 April 2014. Previous amendments (through the Local Government Pension Scheme (Miscellaneous

Amendment) Regulations 2018, S.I. 2018/1366) had sought to equalise the entitlement of some, but not all, groups. Given the extent to which survivor benefits are being equalised (in some cases back to 2005), and the potential complexity of dealing with the legislation as amended, this instrument revokes all provisions of the 2014 Regulations which previously modified the rules relating to survivor pensions, *ab initio*, and replaces them with consolidated modifications. Those amendments have effect from 1 April 2014, when the 2014 Regulations first came into force, with the amendments to regulation 3 of the 2014 Regulations ensuring that the modifications can have retrospective effect before that date as needed. As noted above, this addresses the discrimination identified in *Goodwin v Secretary of State for Education*. The approach in other public service pension schemes to equalise survivor benefits following *Goodwin* has been considered in the design of this solution.

- 6.3 The nomination requirement for cohabitee survivors is removed through amendments to the 2014 Regulations which modify the Local Government Pension Scheme (Administration) Regulations 2008 and the Local Government Pension Scheme (Transitional Provisions) Regulations 2008, insofar as they still apply to members with membership between 1 April 2008 and 31 March 2014. The nomination requirement change is also removed from The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 (which allow LGPS employers to make certain payments following the death of a person), ensuring the full removal of the requirement from legislation.

Death grants

- 6.4 As a registered pension scheme, the LGPS is required to comply with overriding legislation. The age 75 cap on the payment of death grants was required by the Finance Act 2004 (one such piece of overriding legislation) and removed by the Finance Act 2011. The removal of the cap from overriding legislation took effect on 6 April 2011, but the changes being made by this instrument are being backdated to 1 April 2014. This follows the principle of not making changes to previously accrued public service pensions by more than is justifiable and required. In this case, the backdating is in line with the approach taken in the LGPS for Northern Ireland. The removal of the age 75 cap from the current version of the LGPS is achieved through amendments to the 2013 Regulations, and the equivalent changes in respect of earlier versions of the LGPS are achieved through amendments to the 2014 Regulations which modify the earlier LGPS Regulations insofar as they continue to have effect.
- 6.5 The obligation to make payment of two-year death grants to personal representatives was originally required by the Finance Act 2004. This requirement was then removed by the Finance (No. 2) Act 2015. The requirement is removed from the current version of the LGPS through amendments to the 2013 Regulations, and the equivalent changes in respect of earlier versions of the LGPS are achieved through amendments to the 2014 Regulations which modify the earlier LGPS Regulations insofar as they continue to have effect. This change is effective from 1 April 2014 to apply to all death grants unpaid at the time of implementation, and a transitional provision makes it clear that there is no need for administering authorities to revisit any payments that were made before the change comes into force.

Gender pension gap

- 6.6 The changes to make authorised unpaid absences under 14 days automatically pensionable, the changes to the mechanism for buying back lost pension for authorised unpaid absences of 15 or more days, the provision for unpaid additional

maternity leave, additional adoption leave, and shared parental leave to be pensionable, and the requirement for administering authorities to report on the gender pension gap, are all made by amendments to the 2013 Regulations. These changes will have effect prospectively, from 1 April 2026, with transitional provision making it clear that the changes will only apply in respect of unpaid absences (or, in the case of additional maternity leave, additional adoption leave or shared parental leave, the unpaid parts of the absences) that start on or after that date.

Abolition of the lifetime allowance

- 6.7 The changes made to reflect the abolition of the LTA, and the replacement of the concept of “Benefit Crystallisation Event” with “relevant Benefit Crystallisation Event” are achieved in respect of the current version of the LGPS through amendments to the 2013 Regulations, and the equivalent changes in respect of earlier versions of the LGPS are achieved through amendments to the 2014 Regulations which modify the earlier LGPS Regulations insofar as they continue to have effect. Whilst the LTA was abolished from 6 April 2024, transitional provision under the Finance Act 2024 ensures that the rules of a registered pension scheme relating to the LTA have effect as rules relating to PCELSs until the end of the 2028/29 tax year. As such, it is not necessary to make these changes with retrospective effect, and they will apply prospectively from 1 April 2026.

McCloud remedy

- 6.8 The changes made in relation to pension sharing orders, death grants, and interest are achieved through amendments to the 2023 Regulations. The enabling of members who have transferred-in service after the age of 65 to have an underpin date are achieved through amendments to the 2014 Regulations. All McCloud changes are effective from 1 October 2023 (with some of the provisions further having effect in respect of the period from 1 April 2014), to ensure that the remedy is fully effective at remedying the identified discrimination from the first date that it was introduced.

Other changes

- 6.9 The change to make CCAs Scheme Employers in the LGPS is achieved through amendments to the 2013 Regulations. CCAs have been added to the list of named Scheme Employers in Part 1 of Schedule 2 to the 2023 Regulations, with retrospective effect to 28 February 2024.

Why was this approach taken to change the law?

- 6.10 The rationale for the approach taken is explained more fully above.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 In accordance with section 21 of the Public Service Pensions Act 2013, the Secretary of State consulted such persons and representatives of such persons as appeared likely to be affected by these Regulations. The consultation was open to the public from 15 May 2025 to 7 August 2025. Policy officials engaged with LGPS stakeholders on the consultation proposals and collaborated with the Local Government Pension Scheme Advisory Board (SAB) on the publication of targeted communications to, and discussions with, LGPS administering authorities, administration providers, union representatives and employer representatives.

- 7.2 Responses to the consultation are summarised in the government response, available online at [Local Government Pension Scheme in England and Wales: Access and fairness - government response - GOV.UK](https://www.gov.uk/government/consultations/local-government-pension-scheme-in-england-and-wales-access-and-fairness-outcome/local-government-pension-scheme-in-england-and-wales-access-and-fairness-government-response)³. In total, 172 responses were received, from 49 administering authorities, 25 employers, 68 members, the SAB, the Local Government Association, the Local Government Pensions Committee, the LGPS National Pension Officer Group, 1 Government department, 4 unions, and a collection of other responses including think tanks, professional bodies, software suppliers and administration providers. Taken together, the respondents were in the majority supportive of all bar one of proposals (which is not included in this instrument). Particularly strong support was given for the principles of the proposed changes to survivor benefits and death grants and the gender pension gap. Administering authorities were similarly strongly supportive of the additional regulation changes, with many suggesting that the changes would ease administration of the scheme.
- 7.3 Whilst most agreed that the changes proposed were important and, in some cases, overdue, there was a strong view that they would require careful implementation, to ensure the scheme would be able to deliver the change. Nearly half of the responses stressed the need for a lead-in period and/or phased implementation of changes, to help manage resource pressures, particularly in relation to staffing and software requirements. This Statutory Instrument listens to those concerns and balances them against the need to make the LGPS fairer and more equitable for all of its members, by implementing the most urgent policies from the consultation. The remainder of the policies are to be implemented at a later date, subject to further prioritisation and assessment of sector readiness.

8. Applicable Guidance

- 8.1 Guidance on the following areas will be published by the Ministry of Housing, Communities and Local Government online, by 1 April 2026:
- The expected work of administering authorities in applying the updated survivor benefits regulations.
 - Revised actuarial guidance regarding Pension Commencement Excess Lump Sums and the treatment of Additional Voluntary Contributions (to be published in collaboration with the Government Actuary's Department (GAD)).
 - Revised actuarial guidance in respect of the treatment of the McCloud underpin in numerous actuarial notes, including the McCloud remedy retrospective guidance, individual incoming and outgoing transfers and late retirement guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this Instrument because there is a low level of impact on business. The changes that this Instrument brings forward primarily relate to the adjustment of the statutory benefit entitlement of LGPS members, and the administration of those benefits by administering authorities.

³ <https://www.gov.uk/government/consultations/local-government-pension-scheme-in-england-and-wales-access-and-fairness-outcome/local-government-pension-scheme-in-england-and-wales-access-and-fairness-government-response> Hard copies of the consultation and government response are available upon request from the Ministry of Housing, Communities and Local Government, 2 Marsham Street, London SW1P 4DF.

- 9.2 The administration of benefits is conducted by administering authorities and the changes in this Instrument do not interact with any involvement of businesses in that administrative work.
- 9.3 The adjustment to members' statutory benefit entitlement is expected to result in a small increase to the overall liability cost of the scheme at the level of each administering authority. That liability cost is factored into the rate of contributions that each employer pays through a triennial valuation process. In the valuation process, a range of factors (including the current funding level and the expected performance of investments) are used to set employer contribution rates. The contribution rates are set to ensure that, together with returns on investment and employee contributions, the expected future liabilities of the fund can be met. In that context, the additional liability cost of the changes in this instrument are expected to be minimal, given the wider changes to financial and demographic assumptions adopted within funding calculations.
- 9.4 The policies that increase the overall liability cost of the scheme are the equalisation of survivor benefits and the removal of the age 75 cap on death grant payment. The amending of child-related leave to make pensionable all periods of additional maternity, adoption and shared parental leave without pay will increase future costs to employers (both local authorities and businesses), to the extent that members take relevant leave. That additional cost is estimated to be of the order of £1m per year, across all employers in the scheme, with most of that cost to be met by local authorities and not businesses.

Impact on businesses, charities and voluntary bodies

- 9.5 There is no, or no significant, impact on business, charities or voluntary bodies because the changes that this instrument brings forward primarily relate to changing the benefit entitlement of members of the LGPS. Those changing entitlements affect the pensions administered by administering authorities to members, which does not involve businesses.
- 9.6 The legislation does not have a significant on small or micro businesses.
- 9.7 There is no, or no significant, impact on the public sector. As detailed above, the expected direct cost of the changes to employers (of which a significant proportion are local authorities) in the LGPS is of the order of £1m per year. As detailed above, the increase to the overall liability cost of the changes is small and will be managed through the normal LGPS funding arrangements, by the administering authorities of the LGPS, and is therefore not significant. The administrative burden of the changes will have a limited impact on the administering authorities, who will be required to take additional action to enact the proposals. In the first instance, it is for administering authorities to manage that additional action as they deem appropriate. Guidance, which is issued alongside these changes where necessary, makes it clear to administering authorities the expectations of government on the administering authorities taking that action.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation is the continuation of regular engagement by the Ministry of Housing, Communities and Local Government with administering authorities, the SAB and its subcommittees, and wider stakeholders. The statutory remit of the SAB includes providing advice to the Secretary of State on the

desirability of making changes to the Scheme, which the post-implementation review of changes would be considered part of. This will include assessing the collection and reporting of the gender pension gap data that this instrument mandates.

- 10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 The changes made by this instrument to equalise survivor benefits deliver on the commitment made by the previous Government in the written ministerial statement dated 20th July 2020 in relation to the LGPS for England and Wales.

Matters of special interest to the Joint Committee on Statutory Instruments

- 11.2 These regulations contain retrospective provision. Regulations 3, 9(1)(b), (c) and (2), 16, 19, 22, 34, 35(1)(a) and (2) and 42, which make changes in respect of survivor benefits and death grants, have retrospective effect to 1st April 2014. Regulations 29(1)(a), 36 to 40 and 44 to 48, which make changes in respect of the McCloud remedy, have retrospective effect to 1st October 2023. Regulation 33, which adds CCAs to the list of Scheme Employers, has retrospective effect to 28th February 2024. The Secretary of State has an express power to make retrospective provision under section 3(3)(b) of the Public Service Pensions Act 2013, and we explain more fully why this provision is necessary in paragraphs 5.3, 5.7, 5.31, 6.2 to 6.5, 6.8 and 6.9 above.
- 11.3 These regulations contain sub-delegation. Regulations 26, 38, 39 and 46 provide for certain calculations to be carried out in accordance with actuarial guidance issued by the Secretary of State, rather than prescribing a calculation or referring to specific published guidance on the face of the legislation. The Secretary of State has an express power to make regulations allowing any person to exercise a discretion under section 3(3)(c) of the Public Service Pensions Act 2013, and there is a large amount of precedent for using this power to provide for specific LGPS calculations to be carried out in accordance with actuarial guidance.
- 11.4 The amendments made by regulations 12, 13, 17, 18, 20, 21, 23 and 24 include provision relating to amendments made previously by the Local Government Pension Scheme (Amendment) Regulations 2023 (S.I. 2023/279), seeking to improve the drafting of those provisions following minor errors identified (but not reported) by the JCSI.
- 11.5 Following consultation with the SI Registrar, the free issue procedure has been applied to this instrument. The reasons for this are explained more fully below.
- Alongside the substantive changes to regulation 7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 outlined at paragraph 6.3 above, regulation 2(c)(i) takes the opportunity to correct minor typographical errors in that regulation.
 - Regulation 9(1)(a) amends regulation 17(8) of the 2013 Regulations to provide that where a member takes any additional voluntary contributions as a lump sum, this forms part of the member's total accrued benefits for the purposes of the calculation in regulation 33(2). This is a consequential change that should have been made following amendments to regulation 33(2) by the Local Government Pension Scheme (Amendment) Regulations 2018 (S.I. 2018/493).

- As noted above, regulations 12, 13, 17(a)(ii), (b) and (c), 18(a)(ii), (b), (c)(ii), (d), (e)(ii), (f), (g)(ii) (h) and (i), 20(b), 21(e), 23(b) and 24(f) amend regulations 25, 27, 41, 42, 45, 47 and 48 of the 2013 Regulations to make drafting improvements in respect of amendments previously made by the Local Government Pension Scheme (Amendment) Regulations 2023 (S.I. 2023/279). These amendments address minor errors identified (but not reported) by the JCSI.
- As noted above, regulation 45 amends regulation 8 of the 2023 Regulations to ensure that it operates as originally intended in respect of members who died on 30th September 2023.
- As noted above, Regulation 33 amends Schedule 2 to the 2013 Regulations to add Combined County Authorities to the list of scheme employers, which is a consequential change that should have been made by the East Midlands Combined County Authority Regulations 2024 (S.I. 2024/232).

12. European Convention on Human Rights

- 12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).