

**SURREY COUNTY COUNCIL****PENSION FUND COMMITTEE****DATE: 23 SEPTEMBER 2022****LEAD OFFICER: ANNA D'ALESSANDRO, DIRECTOR OF CORPORATE FINANCE****SUBJECT: LGPS UPDATE (BACKGROUND PAPER)****SUMMARY OF ISSUE:**

1. This report considers recent developments in the LGPS.

**RECOMMENDATIONS:**

2. The Pension Fund Committee is asked to note the content of this report:

**REASON FOR RECOMMENDATIONS:**

3. The report provides background information for the Committee.

**DETAILS:****LGPS updates**

4. The LGA have emailed and collated survey responses from LGPS pension managers surrounding recruitment and retention. This is due to some authorities experiencing difficulties in recruiting and retention of staff and to understand the extent of the issue and how working from home and salary levels has had an impact. The results of the survey were shared with the LGPS pension managers only and will not be published.
5. The LGA have confirmed following the upcoming change to the Normal Minimum Pension Age (NMPA) from 55 to 57 with effect from 6 April 2028, that at present this does not fall under Disclosure requirements where members must be informed of material alterations to basic scheme information. In their view this has not changed the LGPS scheme rules on when benefits are payable, and the rules are not automatically linked to the NMPA. The change will occur once the LGPS regulations are amended to align with the change to the NMPA, this will then require members to be notified under regulation 8 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.
6. On 11 May 2022 the LGA published a collection of documents to assist administering authorities dealing with data subject access requests (DSARs), this was requested because of increasing numbers of requests from claims management companies relating to past transfers out and ensures a uniform approach and response from administering authorities.
7. The LGA held an online pension surgery on 12 May 2022 covering their revised non-club transfer out guidance which was updated to cover the new regulatory requirements for pension scam checks. This was a Q&A session which proved successful, a further online surgery is being held on 6 July 2022 on the topic of Stronger Nudge, again following new regulatory requirements for members with Defined Contribution benefits (this applies to the LGPS for those with in-house Additional Voluntary Contributions) and the LGA's technical guidance published reflects the requirements.

8. LGA has updated various [administrator](#) and [employer](#) guides together with a new guide following the new requirements for the Stronger Nudge, mentioned above, which were effective from 1 June 2022 and laid out under [The Occupational and Personal Pension Schemes \(Disclosure of Information\) \(Requirements to Refer Members to Guidance etc.\) \(Amendment\) Regulations 2022](#), which amends the Occupation and Personal Pension Schemes (Disclosure of Information) Regulations 2013. The new regulations requires members looking to access their in-house AVCs or for members aged 50 or over looking to transfer their in-house AVCs in order to access them in another defined contribution scheme, to be referred to take guidance from Pension Wise. Administering authorities must offer to book the appointment for the member, alternatively the member may book the appointment themselves. Members may opt out of receiving this guidance but payment of in-house AVCs cannot be made until the administering authority has either received confirmation from the member that they have taken the guidance or opted out of receiving the guidance.
9. LGA have added a [frequently asked questions](#) (FAQs) on the LGPS member site about the cost of living crisis. The FAQs cover:
  - a) where to find help with money troubles,
  - b) can I reduce or stop my pension contributions,
  - c) could pension scams increase and is there any help for pensioners on a lower income.
10. The LGA will be running a Fundamentals training programme in October, November and December this year. This is a three day training course aimed at elected members and others who attend pension committees/panels and local pension boards. Each day will have a different theme and will assist with the relevant knowledge, skills and understanding required. This will also provide valuable networking opportunities. For links to the various dates and locations please see [here in the LGA's bulletin 227](#).
11. Booking is now open for the [LGPS Governance conference 2023](#), which takes place on 19 to 20 January at the Cardiff Marriott Hotel, although [attendance can also be online](#). This is aimed at elected members and others who attend pension committees/panels and local pension boards and covers key issues for the LGPS with expert speakers in their fields. Whilst the above links include the programme sessions, an updated programme with confirmed speakers will be published shortly.
12. Following Joanne Donnelly's successful appointment to Head of Pensions at the LGA, Jeremy Hughes has been appointed as the replacement to the role of senior pensions secretary, Jeremy was formerly with the DLUHC.

### **Department for Levelling Up, Housing and Communities (DLUHC)**

13. On 12 May 2022 published Statutory guidance on special severance payments. This sets out the government's position on the use of Special Severance payments made by Best Value authorities in England and covers the approval, disclosure and reporting requirements. The guidance confirms that strain costs arising from the payment of pension as a result of redundancy, efficiency or flexible retirement do not constitute a special severance payment. However, awarding additional pension or waiving actuarial reductions as a result of employer discretions to enhance standard benefits may constitute as a special severance payment depending on the terms of the individual's contract.

14. DLUHC has confirmed they do not expect to make a final decision on the application to consolidate Oasis academies into one LGPS fund before Autumn 2022. This has been consulted on twice. Oasis currently participate in 16 LGPS funds and the last consultation closed in February 2022 and was only open to those bodies appearing to be affected by the proposed consultation.
15. DLUHC has confirmed, with a caveat that interpretation of law is ultimately for the courts, that in their view there is no requirement to provide life assurance AVCs. The question was raised as a result of query at the Technical Group as administering authorities are finding it increasingly difficult to undertake a meaningful review of the market, due partly to the fact that not all providers offer life assurance AVCs. DLUHC will consider a clarifying amendment to the regulations to make clear the regulatory intention is that life assurance is only available if it is available and that this does not have to be provided.
16. Following the resignation of Kemi Badenoch MP, who was the Minister of State at the DLUHC, the Government have confirmed that Paul Scully MP has now taken on the ministerial responsibility for the LGPS. The SAB have [published a news article](#) on the changes.
17. DLUHC published on 1 July 2022 the [SF3 form and guidance for 2021/22](#), which sets out the information administering authorities must provide by 16 September 2022. The information collected is used to provide a benchmark on the administration and fund management, together with compiling the National Accounts and to show the role in the economy of the LGPS. The SF3 results for 2020/21 were [published in December 2021](#).
18. On 27 July 2022 a McCloud update was sent from Steven Moseley, at the LGA, on behalf of DLUHC, to administering authorities in England and Wales together with software suppliers. This confirmed that DLUHC intends to:
  - a) Publish the Government's response to [DLUHC's 2020 consultation](#) later this year, where they will set out their decisions on matters covered in the consultation.
  - b) Along with the above, publish an updated version of the draft regulations implementing the McCloud remedy which will reflect the new powers contained within the [Public Service Pensions and Judicial Offices Act 2022, Chapter 3 of Part 1](#), as well as technical feedback received in the 2020 consultation along with any changes in policy. To ensure the draft regulations are accurate due to the amendments, they will be subject to further consultation early in 2023. Other aspects such as compensation and rates of interest, which were not originally part of the consultation, will also be consulted upon at the same time.
  - c) Once the above has been published, the SAB will resume their McCloud implementation groups, which will include representatives from different LGPS stakeholders along with DLUHC.
  - d) Once the consultation is closed, DLUHC intend to issue statutory guidance on the McCloud implementation.
  - e) The Regulations will then be made later in 2023, coming into force on 1 October 2023.

## Department of Work and Pensions (DWP)

19. Launched a [Call for Evidence](#) on 14 June 2022 entitled ‘Helping savers understand their pension choices’. The aim is to explore what support pension scheme members need to help them make clear informative decisions about how to use their pension savings. Views are welcome from pension scheme members, consumer organisations, trustees and scheme managers and the consultation closes on 25 July 2022.
20. Have launched a [further consultation on pension dashboards](#) on 28 June 2022 which closes on 19 July 2022. This supplements the consultation on the draft regulations which closed on 13 March 2022, which DWP have considered the feedback on. This further consultation sets out two proposals, the first providing clarity on the ‘Dashboard Available Point’ (DAP) and the second allows the Money and Pensions Service and The Pensions Regulator to share information about the dashboards with each other. The DAP will be the point at which the dashboards will be available to all members of the public with the proposal that DWP will decide the DAP date and then give pension scheme’s 90 days’ notice to connect, it is hoped this gives scheme’s sufficient time to make final preparations.

## Scheme Advisory Board (SAB)

21. On 13 June 2022 SAB published the [Scheme’s Annual Report 2021](#). This report collates information supplied by 86 administering authorities as at 31 March 2021 and provides a single source of information about the status of the LGPS for it’s members, employers and other stakeholders. Highlights include an increase in membership by 1.08%, total assets increased by 23.4%, local authority net return on investment was 20.56% (reflective of market conditions), a positive cash-flow was maintained overall, including investment income, COVID-19 significantly impacted life expectancy and total management charges increased by £196 million, an increase of 12.9% (primarily driven by a rise in investment management charges, while administration, oversight and governance costs remained broadly stable).
22. Published a [summary of their meeting held on 6 June 2022](#).
23. Appointed a new pensions secretary to the SAB secretariat team, Ona Ehimuan, who will focus on governance issues along with working to improve the Board’s presence online.

## Local Government Pensions Committee (LPGC)

24. Minutes of the meeting held on 7 March 2022, together with draft minutes of the meeting held on 6 June 2022 can be found [here](#).

## Government Actuary’s Department (GAD)

25. On 29 June 2022 GAD [published the results of the first cost cap valuation](#) for the LGPS (England and Wales). The cost cap was introduced by the Public Service Pensions Act 2013, which requires an employer cost cap rate to be set and measured against. [The Public Service Pensions \(Employer Cost Cap\) Regulations 2014](#) set this at 2%. Should the cost change and not be within a 2% margin, action must be taken to bring the cost back to the rate. As the results show the cost is 1.2% below the cost cap rate based on the 2016 valuation results, no changes are necessary to benefits or member contributions.

## HM Treasury (HMT)

26. On 13 July 2022 HMT laid [The Public Service Pensions \(Employer Cost Cap and Specified Restricted Scheme\) Regulations 2022](#), which took effect on 3 August 2022. Regulation 3 amends the cost cap margin from 2% to 3%, previously set out in Regulation 3 of [The Public Service Pensions \(Employer Cost Cap\) Regulations 2014](#).

## Pensions Dashboard Programme (PDP)

27. On 4 April 2022 Richard James, the Programme Director of the PDP published a blog [Twelve months at the Pensions Dashboards Programme](#), looking back over his first twelve months and looking ahead for the next twelve months.
28. On 27 April 2022 the PDP published the [April 2022 progress update report](#), which outlined the activity over the last six months and the plans for the next six months.
29. On 29 April Chris Curry, the PDP Principal, [published a blog](#) covering the April progress report update and hosted a webinar expanding on the contents. This covers the need for pension schemes to act now to prepare for dashboards, timelines and what to expect from DWP and PDP, ISP market development, data matching and the need to improve data quality and the process for partial matches.
30. On 11 May David Reid, PDP Head of Policy, [published a blog](#) covering the consumer protection landscape for pensions dashboards.
31. On 4 July 2022 PASA published the Dashboard Accuracy Data Guidance, which highlights the importance of regularly testing data for accuracy, as matching data requests is pivotal to the dashboards. The guidance also provides information on how schemes could test their data and what data sources they could use.
32. On 7 July 2022 PDP [published a blog from Dave Tonge](#), Chief Technology Officer at Moneyhub, who are alpha testers and have been helping PDP develop pensions dashboards. The blog reflects on the key purpose of multiple dashboards and the importance of the upcoming beta testing. There is also a link to a [demo video](#) on what the dashboards could look like.
33. DWP [responded to the consultation on the draft Pensions Dashboards Regulations](#), together with publishing [a summary of the key policies](#) reflecting the response to the consultation. DWP will be amending the draft regulations to reflect the response, with the expectation of them being laid before Parliament in Autumn. The key areas that will affect the LGPS are:
- a) Staging deadline for LGPS and other public service pension schemes will be deferred from 30 April 2024 to 30 September 2024. This means meeting the required standards of connection, security and technical by this date, together with being able to respond to find requests, matching and provide administrative and signpost data on request.
  - b) Administering authorities will need to provide value data, being the accrued and projected values, by 1 April 2025 (although this can be done earlier if the authority wishes).
  - c) Value date will be taken from a statement provided to the member within the last 13 months, this was previously 12.

- d) Provides detail on meaning of new member and the expected information that must be provided to a new member.
- e) Clarification on possible matches, setting out timescales if a member does or does not contact the scheme with further information.
- f) Whilst the data standards are currently subject to consultation, the proposal is for members with in-house AVCs, that either the AVC provider will supply the information to the dashboard or for the administering authority to gather the information from the AVC provider to then feed this back to the dashboard. This will be the administering authority's choice, but with either option the administering authority is legally accountable for the provision of the AVC information.
- g) Confirmation that schemes will be required to provide an annual income as well as pot values, this will therefore also apply to in-house AVCs).
- h) Any references to 'normal pension age' will change to 'retirement date' to reflect the meaning given in [regulation 19\(5\) of the Disclosure Regulations 2013](#), therefore giving flexibility to schemes who do not provide annual statements as well as being more helpful for members above their normal pension age.

- 34. DWP launched [a further consultation](#) on 28 June 2022 which closed on 19 July 2022, which supplemented the consultation on the draft dashboard regulations and included proposals on the 'Dashboard Available Point' (DAP).
- 35. On 19 July 2022 PDP launched [a consultation on dashboard standards and guidance](#), together with [a call for input on the design standards](#), both close on 30 August 2022. The standards detail how pension schemes and dashboard providers must meet their dashboard standards and includes six sets of data standards and three sets of statutory guidance.

### **The Pensions Regulator (TPR)**

- 36. Hosted a webinar on 6 April 2022 on pension scams and TPR have published a [recording on their website](#). The webinar gave details of the evolving pension scams landscape, information to support the new duties in looking for red and amber flags in relation to transfers of pensions, details about the pledge to combat pension scams and updates from the Pension Scams Industry Group.
- 37. Launched the [Enforcement and prosecution policies consultation](#) on 4 May 2022 which closed on 24 June 2022. This forms part of a review of TPR's policies and updating them to include the new powers granted to TPR in the [Pension Schemes Act 2021](#). [The Draft scheme management enforcement policy](#) will replace existing policies for defined benefit, defined contribution and public sector pension schemes. Whilst the [Draft prosecution policy](#) explains how TPR will approach the prosecution of workplace pension criminal offences or other types of offences that are otherwise related to TPR functions.
- 38. On 7 June 2022 published a [feedback statement on their consultation on the joint Call for Input](#) by TPR and the FCA on the pensions consumer journey, which ran from 18 May 2021 to 30 July 2021. The consultation sought views on what else TPR and the FCA can do to help engage consumers so that they can make informed decisions that lead to better pension saving outcomes. The feedback statement summarises themes that emerged from the responses, TPR's wish for the pensions industry lead the way in developing innovative



ways to support consumers and sets out TPR's response and ongoing workstreams and how they will use the feedback to inform future work.

39. On 10 June 2022 published a [blog on climate reporting](#) in anticipation of around 100 schemes publishing their first reports in line with the Climate Change Governance and Reporting Regulations. TPR will review these reports and following the outcome of their review, will be used to provide high level observations. This will also inform DWP's review covering the effectiveness of the regulations and the range of schemes the regulations should apply to.
40. On 13 June 2022 published their [corporate plan 2022 to 2024](#), which sets out TPR's priorities for the next two years and their [press release](#) confirms they will continue to:
  - a) Call on schemes to continue to take their pledge to combat pension scams.
  - b) Work closely with the DWP and the Financial Conduct Authority (FCA) on a future consultation for a Value for Money Framework.
  - c) Help schemes to become dashboard ready.
  - d) Assess how smaller defined contribution schemes offer value for money.
  - e) Develop their organisational capability with the creation of a Digital, Data and Technology directorate.
  - f) Launch their second consultation on a new defined benefit funding code this autumn, with the code operational from September 2023.
41. Published a [blog on pension scams](#) on 15 June 2022 highlighting tough prison sentences alone are not enough to dissuade pension scammers and the importance of schemes reporting suspected scams and signing up to the [pledge to combat pension scams](#), together with sharing intelligence on the methods being used by scammers. TPR have also published a [Guide to reporting pension scams](#) which covers why concerns about a scam should be reported, what should be reported, when a report should be made, who a report should be made to and what happens once it is submitted.
42. On 22 June 2022 TPR launched a new '[Deadline](#)' campaign to remind trustees and scheme managers to start preparing for the pensions dashboards deadline. In order to help schemes prepare they have published [Pensions dashboards:initial guidance](#), which is based on the draft regulations and outlines legal duties as well as including a [checklist](#) to help schemes manage their progress. The checklist will be regularly updated along with the guidance to reflect the final regulations and the technical standards. They are also holding a webinar on 28 July 2022 and are calling on trustees, scheme managers and administrators to attend.
43. Charles Counsell, the Chief Executive of TPR has [announced he is stepping down from his role at the end of March 2023](#).
44. On 14 July 2022 TPR published its [Annual Report and Accounts for 2021/22](#).

## The Pensions Ombudsman (TPO)

45. Published an updated version on 30 March 2022 of their factsheet on the [Early Resolution Service](#), which provides guidance to members explaining what this is, how it operates and in relation to a complaint, the options the parties involved have.
46. On 31 March 2022 published their [March news](#), which included information on recent determinations and the recently updated factsheets.
47. Have launched an enhanced [online application form](#), being more user friendly and only requiring customers to complete answers where relevant.
48. Recently upheld a complaint regarding an application for ill health retirement for an active member in the LGPS. The full determination can be found [here](#). The Ombudsman found that the employer improperly decided to decline the member's application for payment of ill health from active status and were ordered to pay £1,000 for the serious distress and inconvenience caused to the member. The Ombudsman also found that the Council had failed to consider the member's complaint in a timely manner at Stage Two of the IDR process and were ordered to pay £500 for the additional significant distress and inconvenience the member suffered.
49. On 14 July 2022 TPO published its [Annual Report and Accounts for 2021/22](#).
50. On 20 July 2022 TPO published a [factsheet on McCloud](#), which sets out their views on what affected members and schemes can do now and TPO's present approach to dealing with McCloud complaints. Their starting position will be that they will not investigate McCloud related complaints as they acknowledge the Government is taking steps to address the discrimination with retrospective effect. They will however carefully look at the facts of any cases they receive before deciding whether to investigate and the factsheet gives examples where TPO may decide to investigate a McCloud complaint.

## HMRC

51. Published [Managing Pension Schemes service newsletter April 2022](#). This sets out a new feature which has been added to the Managing Pension Schemes service allowing administrators to migrate their schemes from the Pension schemes online service to the Managing Pension Schemes service, together with other useful information and new features to be introduced.
52. Published [Pension Schemes Newsletter 138](#) on 29 April 2022, which contained information covering; changes to the Scheme Pays reporting deadlines for certain cases following the introduction of the Registered Pension Schemes (Miscellaneous Amendment) Regulations 2022, the annual allowance calculator has been updated to reflect 2022/23 tax year, a reminder to take action to migrate to the Managing Pension Schemes service and that accounting for tax returns to the quarter ending 31 March 2022 must be submitted through the Managing Pension Schemes service.
53. Published [Pension Schemes Newsletter 140](#) on 30 June 2022 which contained information covering; clarification on the rules of paying interest and arrears when equalising guaranteed minimum pensions, new reportable event from April 2023 for certain public service schemes relating to issuing annual allowance statements and HMRC will consult on legislation introducing the new reportable event later this year.



54. Published [Pension Schemes Newsletter 141](#) on 21 July 2022 which contained information covering the [technical consultation launched on 20 July 2022](#) on resolving the low earners tax relief anomaly. The consultation closes on 14 September 2022 and the proposed changes will be included in the next Finance Bill. There are two methods a pension scheme will use, either 'net pay arrangement' or 'relief at source'. The LGPS uses the net pay arrangement where contributions are deducted before income tax is calculated and for members whose income is below their personal allowance, they are not benefitting from tax relief on their pension contributions. The proposed legislation would mean placing a duty on HMRC to make top up payments directly to eligible members and HMRC would identify and notify those affected, inviting them to provide necessary details in order to receive the top up payment. This will not apply until 2024/25.

### **The Pensions Administration Standards Association (PASA)**

55. On 19 April 2022 published fraud [guidance on vetting new employees](#). PASA has been made aware of cases of fraud undertaken or assisted by pension administration employees and in some cases, individuals deliberately gained employment with the intention of committing fraud and this guidance aims to counter the risk.
56. Have published [Good Practice Guidance on DB transfers](#), which is designed to support the transfer processes contributing to the member experience, ensuring communications are timely, helpful and to protect members from pension scams.
57. The PASA Cybercrime and Fraud Working Group have published a [Cybercrime Protection checklist](#) for pension administrators. This checklist builds on cybercrime guidance previously published in November 2020 and gives examples of steps administrators can take to assess their defences against cybercrime.

### **Other news and updates**

58. The Government has changed the Annual Allowance rules within section 9 of the [Finance Act 2022](#) and [The Registered Pension Schemes \(Miscellaneous Amendments\) Regulations 2022](#). These changes will however only apply in certain circumstances where an annual allowance calculation for previous years is retrospectively amended where it is understood the following applies:
- a) Where the employer becomes aware that information previously submitted was insufficient to enable the administering authority to correctly calculate the annual allowance, providing this falls within a 'relevant time', being the tax year in which the employer became aware of the issue and the issue occurred in the previous six tax years.
  - b) If there have been changes to the scheme rules which results in a change to an annual allowance calculation for a PIP, falling within the 'relevant time', being the tax year in which the rule changed and thus changing a Pension Input Amount in the previous six tax years.

If the above applies and the member exceeds the Annual Allowance, the administering authority must issue a Pension Savings Statement within prescribed timescales. For members affected, clauses will apply as to whether a member can elect for mandatory scheme pays and time limits for the election. Upon receipt of a successful election, the administering authority must at the latest, report and pay the tax in the next quarter following the date of the election.

The new regulations also extend the deadline for amending mandatory scheme pays elections by two years, previously this was four years and is now extended to six years.

59. In May 2022 the National LGPS Frameworks for Stewardship Services went live and in June 2022 the National LGPS Frameworks launched their framework for Pensions Administration Operational Support Services, further information can be found on the [National LGPS Frameworks website](#).
60. Work has begun on a new Legal Services Framework, which will replace the current one when it expires in January 2023.
61. The [Chancellor Rishi Sunak has confirmed](#) the state pension triple lock system will be restored next April after it was put on hold last April. It is likely to be based on the September 2022 Consumer Price Index (CPI), which is expected to be around 10%.
62. The [Government have confirmed that the academy guarantee](#) will continue, increasing the annual ceiling to £20 million. This was initially introduced in 2013 and provides that in the event of an academy closing, any outstanding liabilities will not be met by the LGPS fund. The SAB have also [published a news article](#) on this.
63. Following the [2020 LGPS National Knowledge Assessment](#), Hymans Robertson will again run their benchmark knowledge and skills assessment this September. The assessment is aimed at pension Committees and local pension boards and is where administering authorities can gauge the level of knowledge in both groups and compare to other authorities.
64. The Fire Brigades Union and the British Medical Association were given permission on 4 July 2022 to judicially review the UK Government's decision to include McCloud remedy costs in the 2016 cost control valuations and the cases will be heard together. The first cost control valuations included the McCloud remedy costs and this also applied to the LGPS. Whilst the case will look at the Firefighters' and NHS pension schemes, dependent on the outcome, this could impact the LGPS.
65. The Pensions and Lifetime Savings Association (PLSA) recently published the [Cyber Risk Made Simple Guide](#), which was produced in partnership with Aon and Crowe. The guide explains the nature of the cyber threat to pension schemes as well as outlining 15 actions pension schemes may wish to take in response.

**CONSULTATION:**

66. The Chairman of the Pension Fund Committee has been consulted on this report.

**RISK MANAGEMENT AND IMPLICATIONS:**

67. None.

**FINANCIAL AND VALUE FOR MONEY IMPLICATIONS**

68. None.

**DIRECTOR OF CORPORATE FINANCE COMMENTARY**

69. The Director, Financial and Commercial is satisfied that all material, financial and business issues and possibility of risks have been considered and addressed.

**LEGAL IMPLICATIONS – MONITORING OFFICER**

70. None.

**EQUALITIES AND DIVERSITY**

71. There are no equality or diversity issues.

**OTHER IMPLICATIONS**

72. There are no potential implications for council priorities and policy areas.

**WHAT HAPPENS NEXT**

73. No next steps are planned

**Contact Officers:**

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**Consulted:** Pension Fund Committee Chairman

**Annexes:**

None

**Sources/background papers:**

None

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