

SURREY COUNTY COUNCIL

LOCAL PENSION BOARD



DATE: 11 NOVEMBER 2022

LEAD OFFICER: ANNA D'ALESSANDRO, DIRECTOR OF FINANCE, CORPORATE AND COMMERCIAL

SUBJECT: LGPS - BACKGROUND PAPERS

SUMMARY OF ISSUE:

This report considers recent developments in the LGPS.

RECOMMENDATIONS:

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

REASON FOR RECOMMENDATIONS:

The report provides background information for the Board.

DETAILS:**Highlights**

1. **Cost of living issues** – We are monitoring member take-up of opt-outs and 50:50 pension benefits. We have produced an information video and are aware of the heightened risk of pension scammers in the current environment.
2. **McCloud** – Further consultation expected early 2023 on the draft Regulations for the LGPS to implement McCloud, with final regulations being laid by October 2023. In addition to this further work will need to be done for Teachers Pension Scheme members who may be entitled to LGPS membership for the 'remedy period'. More information can be found in points 15 and 16.
3. **Pensions Dashboards** – confirmation frozen refunds not in scope and the staging date for the LGPS is now moved to 30 September 2024 and value data to be made available by 1 April 2025. More information can be found in points 26 and 27.
4. **Colleges** - possible reclassification of colleges and provision of guarantee akin to Academies. More information can be found in point 19.
5. **Climate-related risks** - consultation launched on proposals to require LGPS administering authorities to assess, manage and report on climate-related risks, in line with the recommendations of the Taskforce on Climate related Financial Disclosures (TCFD). More information in point 17.
6. **Death benefits** - request sent to DLUHC for changes to the LGPS regulations relating to payment of Death Grants beyond the age of 75 and equalisation of spouse's benefits. More information in point 20.

LGPS updates

7. LGA have added a [frequently asked questions](#) (FAQs) on the LGPS member site about the cost of living crisis. The FAQs cover:
 - where to find help with money troubles,
 - can I reduce or stop my pension contributions,
 - could pension scams increase and is there any help for pensioners on a lower income.
8. 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.
9. On 1 July 2022 DLUHC published 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](#).
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. A link to the programme sessions, along with confirmed speakers can be found [here](#).

Department for Levelling Up, Housing and Communities (DLUHC)

12. 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:
 - Publish the Government's response to [DLUHC's 2020 consultation](#) regarding the McCloud remedy later this year, where they will set out their decisions on matters covered in the consultation.
 - Along with the above, an updated version of the draft regulations will be published 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 and 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.
 - 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.

- Once the consultation is closed, DLUHC intend to issue statutory guidance on the McCloud implementation.
 - The Regulations will then be made later in 2023, coming into force on 1 October 2023.
13. The implementation of the McCloud remedy in the Teachers' Pension Scheme (TPS) will mean some teachers will be retrospectively eligible for the LGPS covering the period from 1 April 2015 to 31 March 2022. The TPS did not move to being a CARE scheme until 1 April 2015, prior to which it was final salary. For the TPS implementing the McCloud remedy, members affected will be put back into the 'legacy' scheme (final salary) from 1 April 2015 to 31 March 2022 (remedy period) and then moved across to the 'reformed' scheme (CARE scheme) from 1 April 2022. Upon members taking payment of their benefits, they will have the option of taking the benefits built up during the 'remedy period' as either 'legacy' or 'reformed' benefits, this will be known as the Deferred Choice Underpin (DCU). Under the TPS 'legacy' scheme if a teacher has a full time role as well as a part time teaching role, the part time role was not pensionable under the 'legacy' scheme. Where the employer offers the LGPS, the teacher would have been eligible to join the LGPS in relation to the part time role. Under the 'reformed' scheme (CARE) both full time and part time roles are pensionable in the TPS. Teachers affected by this 'excess service', which is estimated to be around 18,000 and is a mix of active, deferred and pensioners, will need records/benefits created in the LGPS. If the member already holds LGPS membership, this will not be affected. Teachers who remain or restart employment after 31 March 2022, will have the option of transferring the LGPS 'excess service' to the TPS. Due to the considerable work this will involve, the LGA will be working with DfE and DLUHC to agree a process for dealing with these cases and the DfE and DLUHC will consult on how this will work in practice in due course.
14. DLUHC have launched a [consultation called Governance and reporting of climate change risks](#). This is seeking views on proposals to require administering authorities to assess, manage and report on climate-related risks, in line with the recommendations of the Taskforce on Climate-related Financial Disclosures.
15. Paul Scully MP has now been appointed as the Minister of State at the DLUHC taking on the ministerial responsibility for the LGPS.

Scheme Advisory Board (SAB)

16. A request has been sent to managers at administering authorities on behalf of DLUHC and the SAB following a request from the Department of Education (DfE) for additional data on colleges. This is in relation to the [Office for National Statistics \(ONS\) announcement](#) that Further Education, Sixth Form Colleges and Designated Institutions in England will review their classification, currently they are classified as part of the private sector. The data will be used to better understand colleges funding requirements and consider the merits of providing additional covenant measures, such as a guarantee like that provided to academies. However, this work does not mean that a guarantee will automatically apply. DfE wish to consider the options available in the Autumn.
17. The Chair of the [SAB sent a letter](#) to Paul Scully, recommending amending the regulations on death grants and survivor benefits. The letter expressed concern about continuing to limit the death grant payment to members who die before the age of 75 and that this restriction poses risk of legal challenge and should therefore be removed. The letter also reminded the minister that the LGPS rules on survivor benefits have not yet been amended to reflect the Goodwin judgement, together with reminding about a previous recommendation of removing all differences in survivor benefits from a time to be agreed rather than retrospectively.

18. The SAB have issued a survey on funding strategy statement guidance, commissioned by the Compliance and Reporting Committee. This seeks opinions on the funding strategy statement guidance produced by the Chartered Institute of Public Finance and Accountancy (CIPFA)

Government Actuary's Department (GAD)

19. 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)

20. 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](#).
21. HMT launched a consultation on 8 August 2022 on [public sector exit payments](#) which closed on 17 October 2022, the proposals will apply to Central Government and not local authorities or bodies under devolved administrations, but will apply to academies. This would introduce an expanded approval process for employee exits and special severance payments where the payment is more than £95,000. This payment would include relevant statutory, contractual or discretionary payments (so would include any strain cost if an LGPS member aged 55 or over, leaves due to redundancy or efficiency. A further approval would also be needed if special severance payments (payments in excess of contractual obligations) are to be offered. If payments are made above the £95,000 then these would need to be reported to HMT.

Department of Work and Pensions (DWP)

22. On 1 August 2022 [Collective Money Purchase Schemes](#) (also known as Collective Defined Contribution or CDC schemes) were launched and applications opened to the new type of pension scheme. They are designed to provide improved retirement returns for savers along with more predictable costs for employers.

Pensions Dashboard Programme (PDP)

23. The DWP have confirmed that frozen refunds are out of scope for the initial dashboards as they are not considered to be member benefits. It may be at some point in the future they will be included.
24. 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:
 - 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.

- 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).
 - Value date will be taken from a statement provided to the member within the last 13 months, this was previously 12.
 - Provides detail on meaning of new member and the expected information that must be provided to a new member.
 - Clarification on possible matches, setting out timescales if a member does or does not contact the scheme with further information.
 - 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.
 - 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).
 - 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.
25. 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.
26. 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).
27. On 19 July 2022 PDP launched [a consultation on dashboard standards and guidance](#), together with [a call for input on the design standards](#), both closed 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.
28. The Pensions Administration Standards Association (PASA) have published [Guidance on Value Data](#) for pensions dashboards which includes a checklist of steps that scheme administrators can take now. This is to help administrators understand what the Value Data requirements mean, identify any gaps in data that may exist and options for filling those gaps, along with work that can be undertaken in advance of schemes staging dates. PASA have also updated their guidance on [Data Matching Conventions](#).

The Pensions Regulator (TPR)

29. On 14 July 2022 TPR published its [Annual Report and Accounts for 2021/22](#). TPR has published a new [strategy to compensate pension scams](#), which sets out their plan to combat scams which includes; educating industry and savers on the threat of scams, prevent practices which can harm savers' retirement outcomes and fight fraud through the prevention, disruption and punishment of criminals.
30. TPR have [published a press release](#) warning employers to ensure they are complying with their automatic enrolment duties. This is as a result of in-depth compliance inspections with more than 20 large employers earlier in the year where TPR found several common errors relating to calculating pension contributions and communications to staff. The employers involved were from the transport, hospitality, finance and retail sectors.

The Pensions Ombudsman (TPO)

31. TPO published its [Annual Report and Accounts for 2021/22 on 14 July 2022](#).
32. 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.
33. TPO have published their corporate plan for 2022 – 2025 which outlines TPO's key performance indicators, strategic goals, priorities for the period and actions required to deliver those priorities.

HMRC

34. 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.
35. 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.

Other news and updates

36. 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.

37. 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.
38. 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.
39. The Supreme Court has ruled in favour of a zero hours contract worker who worked on a term-time only contract within a school and the calculation of their holiday pay. The [Harper Trust v Brazel](#) case also has implications for those who work varying hours during only certain weeks of the year but with a continuing contract. LGPS employers may wish to review their policies on the calculation of holiday pay in light of the case as well as whether any backdated payments are due.
40. The government has launched the [Public Sector Fraud Authority \(PSFA\)](#) to tackle fraud committed against public funds. They will work with public bodies to test their defences and help them build stronger safeguards.
41. A [supplementary consultation](#) has been published by the government relating to the consultation on reform of the Civil Service Compensation Scheme 2017 which has been ongoing since 2017. This is seeking views on reforms to the Civil Service Compensation Scheme which includes; changes to the maximum payments made under compulsory redundancy, voluntary redundancy and voluntary exit, allowing employer-funded top-up to pension from age 56 to track ten years behind the State Pension Age and clawback arrangements for those returning to the organisation within six months of receiving a compensation payment. Whilst this does not apply to local government, it is expected that DLUHC will be looking at limits to exit payments for LGPS members with amendments to regulations.
42. [The High Court has dismissed a challenge](#) against Retail Price Index (RPI) reform. The judicial review claim was brought about by British Telecom, Ford and Marks & Spencer pension schemes as a result of the UK Statistics Authority's decision to align the RPI with a housing cost-based version of the Consumer Price Index (CPI) from 2030.

CONSULTATION:

43. The Chairman of the Local Pension Board has been consulted on this report.

RISK MANAGEMENT AND IMPLICATIONS:

44. None.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

45. None

DIRECTOR OF CORPORATE FINANCE COMMENTARY

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

LEGAL IMPLICATIONS – MONITORING OFFICER

47. None.

EQUALITIES AND DIVERSITY

48. There are no equality or diversity issues.

OTHER IMPLICATIONS

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

WHAT HAPPENS NEXT

50. No next steps are planned.

Contact Officers:

Sandy Armstrong Technical Manager
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Consulted:

Local Pension Board Chairman

Annexes:

None.
