

## SURREY COUNTY COUNCIL

## LOCAL PENSION BOARD



DATE: 28 JULY 2023

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

SUBJECT: LGPS UPDATE (BACKGROUND PAPER)

**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 <b>McCloud consultation response submitted</b>	Consultation held on amendments to the LGPS regulations to implement the McCloud remedy. More information on McCloud in paragraphs 23, 24, 27, 28 and 42.
2 <b>Delay to Pensions Dashboards</b>	With the announcement of delay to Pensions Dashboards, schemes are being urged to continue preparing for connection and new connection deadlines will be removed from Dashboards regulations and provided in guidance. More information in paragraphs 17 to 22 and 31.
3 <b>Revised factors received following SCAPE discount rate change</b>	Following change to the SCAPE discount rate, new transfer out and divorce quotations were suspended from 30 March 2023. Also affected were transfers in, actual transfers out and the splitting of pension following a Pension Sharing Order. Revised factors now being received in batches, but this has caused some delays in issuing information by the team, who will now work through cases that were put on hold. Other actuarial factors will be affected. More information can be found in paragraph 5.
4 <b>Investments and Climate Related Financial Disclosures highlighted</b>	With much focus on these topics, DLUHC have launched a consultation on next steps for LGPS investing. In addition, a recent Bill has been introduced which will extend to LGPS investment decisions and TPR have provided guidance and information for schemes. More information can be found in paragraphs 8, 10, 15, and 33 to 36.

## LGPS updates

5. Following the change on 30 March 2023 to the Superannuation Contributions Adjusted for Past Experience (SCAPE) rate, on 1 June 2023 GAD issued revised factors for Cash Equivalent Transfer Values (CETV) and for pensioner divorce purposes, Cash Equivalent Value (CEV) factors. On 3 July 2023 revised factors were received for transfers in and early retirement reductions. Late retirement increases factors were also received on 3 July but will not be effective until 1 September 2023, all other factors are effective immediately. Two more batches are expected around the end of July and August.
6. New factors and memorandum guidance for Club transfers is also expected to come into force on 1 October 2023, to take into account the changes relating to the SCAPE discount rate, McCloud and the CARE revaluation date, for both the LGPS and NHS, moving to 6 April.
7. The LGA have published a FAQ on backdated pay awards for employers as well as updating some of their guides.
8. The Department for Levelling Up, Housing and Communities (DLUHC) have launched a consultation on the next steps for LGPS investing. The consultation seeks views on proposals in 5 areas:
  - First, the government sets out proposals to accelerate and expand pooling, with administering authorities confirming how they are investing their funds and why. While pooling has delivered substantial benefits so far, we believe that the pace of transition should accelerate to deliver further benefits which include improved net returns, more effective governance, increased savings and access to more asset classes. We propose a deadline for asset transition by March 2025, noting we will consider action if progress is not seen, including making use of existing powers to direct funds. Going forward, we want to see a transition towards fewer pools to maximise benefits of scale.
  - Second, the government proposes to require funds to have a plan to invest up to 5% of assets to support levelling up in the UK, as announced in the [Levelling Up White Paper \(LUWP\)](#). This consultation sets out in more detail how the Government proposes to implement this requirement and seeks views on its plans.
  - Third, the government is proposing an ambition to increase investment into high growth companies via unlisted equity, including venture capital and growth equity. The government believes there are real opportunities in this area for institutional investors with a long-term outlook, such as the LGPS.
  - Fourth, the government is seeking views about proposed amendments to the LGPS's regulations to implement requirements on pension funds that use investment consultants. These amendments are needed to implement the requirements of an order made by the Competition and Markets Authority (CMA) in respect of the LGPS.
  - Finally, the government is proposing to make a technical change to the definition of investments within LGPS regulations.

## Scheme Advisory Board (SAB)

9. The SAB have updated their [website](#), the content remains the same.
10. The SAB provided a statement on [Freedom of Information \(FOI\) requests on climate advice and data](#), which provides advice on dealing with such requests due to the increase for requests of information about responsible investment policies.
11. The SAB published a report on the [gender pensions gap in the LGPS](#) from the Government Actuaries Department (GAD). The Board noted the findings need to be interpreted with caution and will do further work to understand the data, investigate the causes together with considering the possible next steps.
12. The SAB are running a series of free in person training sessions on Code of Transparency (CoT) which is aimed at officers within administering authorities, Local Pension Board and Committee Members with an interest in investment and governance issues. The sessions are in person and will provide:
  - An explanation of the purpose and background of SAB's ground-breaking Code of Transparency.
  - A case study from an LGPS fund on how investment cost information has been used.
  - A troubleshooting session on how to use the online reporting system (for administering authority officers only).
  - A facilitated discussion on the information that fund officers should be receiving and how this information should be reported to pension boards and committees (for administering authority officers only).

The dates and locations can be found within [bulletin 239](#).
13. Following [legal advice](#) received, the SAB has commissioned expert advice around Sharia compliance from Amanah Associates. The report is expected in two months' time.
14. The DLUHC published its [response to the consultation](#) on changes to the SAB's cost management process and the Government laid the [Local Government Pension Scheme \(Amendment\) \(No.2\) Regulations 2023](#) which came into force on 1 June 2023. This will give the SAB greater flexibility in making recommendations to the Secretary of State where there is a breach as well as better aligning the SAB's cost management process with HM Treasury's reformed cost control process. The SAB process will operate before HMT's cost control mechanism.
15. On 19 June the UK Government introduced into Parliament the [Economic Activity of Public Bodies \(Overseas Matters\) Bill](#), which is aimed to prevent public bodies from being influenced by political or moral disapproval of foreign states when taking certain economic decisions, subject to certain exceptions. The Bill will extend to LGPS investment decisions, and the Pensions Regulator will be given power to enforce the ban on LGPS administering authorities. On 23 June the SAB responded stating they will discuss this further in their meeting on 17 July 2023. More of their initial response can be found on their [website](#).
16. The SAB have published their [tenth Annual Report](#), this provides a single source of information about the status of the LGPS for its members, employers and other stakeholders.

## Pensions Dashboard Programme (PDP)

17. A [written ministerial statement](#) has been published giving an update on dashboards. This confirms the Department for Work and Pensions (DWP) have laid the draft [Pension Dashboards \(Amendment\) Regulations 2023](#) to remove the phased staging timeline, replacing this with a single connection deadline of 31 October 2026. The regulations will allow the DWP and the Money and Pensions Service (MaPS) to issue guidance setting out a staging timeline for schemes which schemes must have regard to.
18. The Pensions Regulator (TPR) published a blog [‘Make time to get your data dashboard-ready’](#), encouraging schemes to continue working on data to ensure they are ready for dashboards and what they should be considering in preparation. TPR also amended their [guidance](#) following the ministerial statement.
19. PDP published its [latest news](#) on dashboards, with articles including:
  - The written ministerial statement which confirmed there will be an update on pensions dashboards connection times before the summer recess in July.
  - Frequently asked questions on the new approach to connection.
20. The PDP commissioned Ipsos to undertake [research to help develop consent and authorisation wording](#) for dashboards. The research group covered a range of ages, income levels and pension types and were asked to provide feedback on draft versions of consent and authorisation wording that would appear on dashboards. This explained what the Money and Pensions Service would and would not do with the users’ data and asked for consent for these uses. Feedback was positive and will help to further shape the wording.
21. The Pensions Administration Standards Association (PASA) [published guidance on value data](#) and aims to give pension schemes ‘good practice’ approaches to providing value data to the dashboards. The LGPS secretariat contributed to the guidance ensuring it covered specific recommendations for public service pension schemes.
22. The [Pensions Dashboards \(Prohibition of Indemnification\) Act 2023](#) will prohibit trustees and managers of occupational and personal pension schemes from being reimbursed out of scheme assets for any penalties imposed on them under the dashboard regulations.

## McCloud

23. DLUHC published their [response](#) to the initial consultation on McCloud which closed on 8 October 2020. A further consultation and draft regulations, was launched on 30 May 2023, closing on 30 June 2023, seeking views on:
  - Underpin protection to apply to members who were in the LGPS on or before 31 March 2012 and joined the CARE scheme before 1 April 2022, regardless of whether those former LGPS benefits have been combined or not, providing there is not a disqualifying break (no more than a 5 year break in a public service pension scheme to which the periods relate).
  - Members also qualifying for the underpin if they have previous membership in another public service pension scheme on or before 31 March 2012, even if those former benefits have not been transferred to the LGPS, again providing there is not a disqualifying break.
  - Underpin protection to apply on benefits built up after flexible retirement, providing the member flexibly retired before 1 April 2022.
  - Policies for teachers with excess service.
  - Compensation and interest.

The underpin period will be from 1 April 2012 to 31 March 2022 and the regulations are due to come into force on 1 October 2023.

The Surrey Pension Team responded to the consultation on 30 June and the response will be shared with the Pension Committee. The [LGA also responded](#) to the consultation on 30 June. Main concerns raised are:

- Lack of lead in time with regulations likely to be finalised and laid late September but effective from 1 October.
  - As a result of the above, pension system software will not be updated by 1 October to undertake calculations to apply the new underpin, leading to increased workload where either these are calculated manually and then revisited and replicated once the system is updated, or processing as is and revisiting as part of the McCloud project.
  - Gathering of information from members who have other public sector pensionable service which has not been transferred, to ascertain if underpin protection applies and then validating this with other public service pension schemes.
  - Draft regulations and HMRC's tax legislation does not currently cover teachers excess service.
24. The DLUHC have worked with the SAB and published a [factsheet](#) summarising the McCloud remedy for LGPS members.

#### **HM Treasury (HMT)**

25. HMT published a [written ministerial statement](#) and [further detail](#) on the cost control mechanism and reformed scheme only design. This confirms only reformed scheme design will be included in the cost control mechanism, any cost increases associated with final salary benefits and the impact of the McCloud remedy will be excluded.

#### **HMRC**

26. HMRC published [Pension Schemes newsletter 149](#), which confirmed schemes can continue to use their current process when paying death grants that may exceed the lifetime allowance (LTA). Within the Budget on 15 March 2023, it was announced pensions administrators would be responsible for liaising with the personal representatives and if the LTA was exceeded, deduct tax as if it were pension income. The process has been withdrawn following concerns raised in a working group.
27. HMRC launched a consultation on [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#), which closed on 19 June 2023 and is to supplement [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023](#), which came into force on 6 April 2023. The first set of regulations modifies various tax legislation, ensuring correct tax treatment is applied following the implementation of the McCloud remedy, the further regulations propose further modifications. The [LGA responded](#) and point out the regulations do not deal with tax issues in relation to teachers excess service. HMRC have published [guidance on the draft regulations](#).
28. HMRC published a [Remedy newsletter](#) providing information on the draft rectification regulations mentioned above. HMRC also request a named contact from each public service organisation, to set up initial meetings to help developing HMRC's processes in support of the McCloud remedy. They are also looking to publish McCloud remedy guidance.

## Department for Work and Pensions (DWP)

29. The DWP published a [call for evidence](#) on the alternative quality requirement used by defined benefit schemes for automatic enrolment (AE), this is to conclude whether existing requirements continue to be achieved.
30. The DWP published a [review of the Occupational and Personal Pension Schemes \(Conditions for Transfers\) Regulations 2021](#), which they agreed to review within 18 months of the regulations being operational. They conclude that the policy intent remains appropriate, however there is concern about applying the regulations and will work with industry and TPR to consider if changes could be made to improve the process without undermining policy intent.

## The Pensions Regulator (TPR)

31. TPR held a webinar, which was [recorded](#), on dashboards covering data preparation duties and steps schemes need to take to ensure their data is accurate, complete, up-to-date and digitally accessible.
32. TPR published its [corporate plan for 2023/24](#) outlining TPR's key priorities for the year, including working with the Financial Conduct Authority and DWP to develop a value for money framework, launching the new defined benefit funding code, increasing its attention on tackling scammers and supporting schemes to prepare for dashboards.
33. TPR published new guidance on [liability driven investments \(LDI\)](#) which sets out further practical steps schemes should take to manage risks.
34. TPR published a [review of climate related disclosures by occupational pension schemes](#). Whilst their review relates to private pension schemes, based on a selection of climate-related disclosures published by occupational pension schemes, it contains observations which may be useful for LGPS funds ahead of Task Force on Climate-Related Financial Disclosures (TCFD) reporting.
35. TPR [published a blog](#) on why ignoring environmental, social and governance (ESG) factors can no longer be ignored.
36. TPR published a blog on [protecting savers from economic volatility](#), reminding trustees to continue to act on their guidance on managing risks in liability-driven investments.
37. TPR authorised the UK's first Collective Defined Contribution (CDC) scheme, being the Royal Mail Collective Pension Plan.

## The Pensions Ombudsman (TPO)

38. TPO is expanding its network of volunteer advisers and more information can be found on [TPO's website](#).

## Other news and updates

39. The Department for Education (DfE) [published their policy](#) for guaranteeing the outsourcing arrangements of academy trusts, which only applies to England. Education and Skills Funding Agency (ESFA) approval is no longer required by academy trusts seeking pass-through arrangements with their administering authority for outsourcing contracts for employees covered by the DfE Guarantee policy.
40. The LGA annual governance conference will be held in York on 18 and 19 January 2024, booking will open in July.

41. The LGA are hosting a three-day Fundamentals training course and is mainly aimed at elected members and others who attend Pension Committees and Local Pension Boards. The course provides a scheme overview, current issues relating to administration, investments and governance. The training is available in person in either Manchester or London as well as online sessions over two days. More information on dates and booking can be found in [bulletin 239](#).
42. The Court of Appeal has granted unions permission to appeal against the recent High Court judgement over the government's proposed method of meeting the cost of implementing the McCloud remedy in public sector schemes.

**CONSULTATION:**

43. The Chair 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, 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**

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

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**Contact Officers:**

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**Consulted:** Local Pension Board Chair

**Annexes:** None

**Sources/background papers:** None

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