



SURREY PENSION FUND COMMITTEE REPORT

SURREY COUNTY COUNCIL

SURREY PENSION FUND COMMITTEE

DATE: 13 SEPTEMBER 2024

LEAD OFFICER: ANNA D'ALESSANDRO, EXECUTIVE DIRECTOR, FINANCE AND CORPORATE SERVICES

SUBJECT: RECENT DEVELOPMENTS IN LGPS (BACKGROUND PAPER)

SUMMARY OF ISSUE:

This report considers recent developments in the Local Government Pension Scheme (LGPS).

RECOMMENDATIONS:

It is recommended that the Pension Fund Committee:

1. Note the content of this report.

REASON FOR RECOMMENDATIONS:

The report provides background information for the Committee.

DETAILS:

Highlights

1. Pensions Review

The Chancellor announces a landmark pensions review. More can be found in paragraph 6.

2. McCloud limited consultation

A limited consultation held on McCloud and the inclusion of underpin figures in Annual Benefit Statements for affected members. More can be found in paragraphs 10,13 and 14.

3. Good Governance recommendations

A consultation was expected following the Scheme Advisory Board recommendations but has been delayed. More can be found in paragraphs 22 and 23.

4. Abolition of Lifetime Allowance

Further updates following the removal of the LTA and the introduction of the new regime. More can be found in paragraphs 7, 9 and 36.

LGPS Updates

5. Following the general election, the Department for Levelling Up, Housing and Communities (DLUHC) has reverted to its former name, the Ministry of Housing, Communities and Local Government (MHCLG).
6. The Government announced a [pensions review](#) on 20 July 2024 as part of its mission to 'boost growth and make every part of Britain better off'. The review will look at how to 'unlock the investment potential of the £360 billion LGPS' and 'tackle the £2 billion that is being spent on fees'. The review will also consider the benefits of further consolidation to cut down on 'fragmentation and waste' in the LGPS and the Government will consider legislating to mandate pooling if insufficient progress is made by March 2025.
7. Following the removal of the Lifetime Allowance (LTA) and the introduction of the new lump sum limits, a consultation was expected from MHCLG, on the long-term policy on allowing a Pension Commencement Excess Lump Sum (PCELS) to be paid from the LGPS and if so, what the limit should be. This has been delayed due to the general election and in the interim an email was forwarded from MHCLG, setting out what administering authorities should do in the meanwhile and the Local Government Association's (LGA) guide on the Abolition of the LTA has been updated to reflect this.
8. The Education and Skills Funding Agency have updated [guidance on academies and LGPS liabilities](#) to include a definition of a 'pass-through arrangements'.
9. The LGA have updated several [member](#) and [employer](#) guides to incorporate the latest on the McCloud position, removal of the Lifetime Allowance (LTA) and the new lump sum allowances introduced, along with other minor changes.
10. The LGA have updated the technical guide on annual benefit statements to reflect their understanding of what must be included as a result of the McCloud remedy and the introduction of pensions dashboards from 2025.
11. 2024 Fundamentals training is now open for booking and is a 3 day training course aimed at Councillors and others who attend pension committees and local pension boards. The course provides a scheme overview and covers current issues in relation to administration, investment, and governance in the LGPS. There is the option of attending in person in London or York, or online via Zoom. LGA [bulletin 253](#) contains further information and links for booking (page 14).
12. The [National LGPS Frameworks](#) for Additional Voluntary Contributions (AVC) Services launched in July 2024.

McCloud

13. The MHCLG launched a limited technical consultation, which closed on 9 July 2024, on whether underpin information is included in Annual Benefit

Statements (ABS) for the scheme years 2023/24 and 2024/25. Currently the legislation requires the inclusion of this for active members from 2023/24 onwards, whilst for deferred members the rules are less specific. The draft regulations within the consultation would mean administering authorities would have discretion and would not need to include estimated underpin figures for the 2023/24 ABS, implementing the approach MHCLG set out in its [response to the McCloud consultation](#) (paragraph 118), with the amendment being backdated to 1 October 2023, covering the 2023/24 ABS' that may be sent before the regulations are made. If the regulations are not laid by 31 August 2024, the Pensions Regulator (TPR) expects all administering authorities to report not including McCloud information in their statements as a material breach of the law.

14. In the above mentioned consultation, MHCLG also sought views in extending this further for certain members or classes of members, if the administering authority consider it reasonable to do so for the 2024/25 ABS. This would mean authorities using this discretion would need to decide before 31 July 2025 and inform affected members in the ABS for 2024/25, but to avoid this discretion being used too broadly and delaying the McCloud remedy, MHCLG are consulting on whether guidance should be issued about such circumstances where it may be appropriate to apply this discretion.
15. The MHCLG has issued the final statutory guidance on the McCloud implementation, providing the Government's views on the approach that should be taken in certain types of cases, together with how certain technical issues should be approached should they arise, thereby leading to a fairly consistent approach across the LGPS.
16. The MHCLG issued new actuarial guidance on trivial commutation, incoming and outgoing transfers, pension debits, CETVs on divorce, which all provide additional information about how the McCloud remedy affects the relevant calculations.
17. The Government Actuary's Department (GAD) have published new guidance on applying the McCloud remedy to retrospective cases, together with an interest calculator for retrospective McCloud calculations.
18. The LGA are regularly meeting with representatives from MHCLG, the Department for Education and Capita to discuss the operation of the McCloud remedy for teachers with excess service and the Teachers' Pension Scheme (TPS) [website](#) sets out a brief summary of the process.

Scheme Advisory Board (SAB)

19. A sub group have begun a detailed review of the Funding Strategy Statement (FSS) guidance, which was last updated in 2016, with aims of making the guidance shorter, sharper and more accessible for all stakeholders such as employers.

20. As part of their work on the gender pensions gap in the LGPS, the SAB are looking for employers interested in taking part in further research to help identify the underlying causes of the gap and ways to help close this gap.
21. The SAB sent a [letter to the Chief Secretary to Treasury](#) about the gender pensions gap, suggesting the Government take a consistent and active approach across all public sector schemes.
22. The MHCLG's consultation on the Good Governance recommendations has been delayed due to the general election. The consultation was expected to include changes to regulations 55 (governance compliance statements) and 59 (pension administration strategy) along with guidance to implement most of the recommendations made. The SAB will ensure the implementation of the Good Governance recommendations is raised as a priority with the Minister when the new Government is formed.
23. Whilst the implementation of the Good Governance recommendations should help resolve some of the ambiguity in the General Code for the LGPS, it is recommended administering authorities should not delay reviewing their compliance while awaiting the consultation. There is no regulatory timescale to comply with the General Code and TPR strongly recommend having a clear action plan setting out how and when administering authorities plan to address the General Code compliance.
24. The SAB met with The Pensions Regulator (TPR) to discuss the review of the public sector toolkit and whilst TPR have said it is being revised they could not commit to it remaining a standalone product, but it may be incorporated into a series of thematic toolkits TPR is producing.
25. The SAB issued a short survey on 20 May 2024 to employers to assist their understanding in why some people choose to opt out of the LGPS. The 53 responses have been analysed and the SAB have set out a paper outlining the main findings and suggested next steps for action has been submitted to the Cost Management, Benefit Design and Administration Committee for its meeting on 1 July 2024.
26. The SAB has published its [eleventh Scheme Annual Report](#) which is aimed to provide a single source of information about the status of the LGPS for its members, employers and other stakeholders, combining information supplied in the England and Wales LGPS fund annual reports as of 31 March 2023 for the reporting year 2022/23.
27. The SAB and the Institute of Chartered Accountants in England and Wales (ICAEW) have published an [informer document](#) to explain the timeline and information flow for the triennial valuation and accounting/audit purposes with the primary audience being Scheme employers and their external auditors.
28. The SAB are researching the longer-term future of the data compliance system which supports the [LGPS Code of Transparency](#) and will be launching an early market engagement exercise shortly.

29. The Education and Skills Funding Agency (ESFA) is the [ultimate guarantor of academy schools](#) and the SAB have been asked to confirm its view that the ESFA is a body whose rights and/or liabilities under the Scheme may be the subject of decisions made by the administering authority. For example, in connection with decisions relating to the exit of an academy school and whether exit payments or credits are due, ESFA should be kept informed and is entitled to make representations as to its interests.
30. Following the general election, the [King's Speech](#) set out the Government's plans and priorities for the first parliamentary session and included in this is the Bill on Audit Reform and Corporate Governance, which could pave the way for separation of pension funds from host authority audit in England. The SAB previously called for this in a [letter in 2022](#) and was assured its recommendation would be taken forward once a suitable legislative vehicle had been identified.
31. The GAD has now completed the scheme cost assessment as required under the LGPS regulations and the [SAB cost management process final report](#) was completed using [methodology and assumptions](#) determined by the Board. The scheme cost was assessed as being 1 percent above the target cost and so the Board could make a recommendation to amend benefits to bring scheme costs back towards the target cost and following discussion the Board agreed not to make any recommendations for change in its [letter to the Secretary of State about the outcome](#).

Pensions Dashboard Programme (PDP)

32. The PDP have published an updated version of the [data standards](#), which covers the data requirements for 'finding' and 'viewing' pensions information, together with a [blog](#) on the new version.
33. On May 2024 the Pensions Administration Standards Association (PASA) published an [update](#) from its dashboards working group, outlining ongoing development of guidance and resource relating to additional voluntary contributions, test case matrix, matching and data readiness.
34. The National LGPS Framework for [Integrated Service \(ISP\) and Member Data Services](#) is now live.
35. TPR will start their programme of nudge communications shortly and will be sending a series of five emails in the run up to the connection date. The emails will contain key messages about where TPR expects administering authorities to be in the dashboard implementation process. In November 2024 TPR will be sending their first dashboards readiness survey covering nine key areas including awareness of duties, preparation for connection, data preparation, compliance and engagement.

His Majesty's Revenue and Customs (HMRC)

36. HMRC has acknowledged technical inaccuracies in the legislation introduced to implement the new regime following the abolition of the LTA and plans to introduce new legislation to address the issues after the parliamentary recess.

HMRC is undertaking a short technical consultation on the draft legislation over the summer.

The Pensions Regulator (TPR)

37. TPR published its new [Corporate Plan 2024 to 2027](#), setting out TPR's direction for the next three years, how it will protect savers money, help to enhance the pensions system and support innovation in the interests of savers.
38. The Chief Executive at TPR delivered a [keynote speech](#) at Professional Pensions Live on 22 May 2024 covering the corporate plan, driving value for money, securing the future for defined benefit schemes, raising standards across all scheme types, data quality and TPR's future approach to regulation. There is also an accompanying [press release](#).

The Pensions Ombudsman (TPO)

39. TPO published a [blog](#) on its operating model review, which aims to improve TPO's efficiency and reduce waiting times. The three areas of focus for improvement are resolution team changes, expedited determinations and thresholds for accepting complaints.
40. TPO held a forum for stakeholders from across the industry and more can be found in the event in a [blog](#). TPO encourages stakeholders to join their future events and [subscribe to the TPO mailing list](#) to receive updates and event invitations directly.

Other News and Updates

41. Following the dismissal by the Court of Appeal on the case brought about by the [British Medical Association \(BMA\) and the Fire Brigades Union \(FBU\) vs HMT](#), the FBU have announced in a [press release](#) that it is seeking permission to appeal to the Supreme Court.
42. The Pensions Scams Industry Group (PSIG), which is a voluntary body created by the pensions industry to combat pension scams, have consulted on its [future strategy](#) with the aim of understanding the value provided by PSIG, possible direction and how this could be achieved, including possible funding options.
43. The Government have launched a digital service, '[Check your State Pension Forecast](#)', designed to make it easier for individuals to check for and fill any gaps in their National Insurance record to help increase their State Pension.
44. PASA has published new guidance, [Data Presence v Accuracy](#), which sets out why data should not just be present but accurate and provides suggestions on how administrators can improve and maintain their data accuracy.
45. The Court of Appeal dismissed the appeal in the [Virgin Media Ltd v NTL](#) case on 25 July 2024. The High Court had previously ruled that:

- a) amendment of pension scheme rules in respect of Section 9(2)B rights were void unless the scheme actuary certified that the scheme still met the contracting-out adequacy test
- b) this applied to rights built up before and after the change in rules
- c) all amendments are affected by the ruling, not just those that have a negative impact on section 9(2)B rights.

The appeal concerned (b) only and the Court of Appeal upheld the High Court's ruling and it is understood the ruling will apply to the LGPS and HM Treasury are currently assessing the implications for all public service pension schemes. The LGA expect to provide further information once there is more clarity on the position.

CONSULTATION:

46. The Chair of the Pension Fund Committee has been consulted on this report.

RISK MANAGEMENT AND IMPLICATIONS:

47. Any relevant risk related implications have been considered and are contained within the report.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

48. Any relevant financial and value for money implications have been considered and are contained within the report.

EXECUTIVE DIRECTOR OF FINANCE & CORPORATE COMMENTARY:

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

LEGAL IMPLICATIONS – MONITORING OFFICER:

50. There are no legal implications or legislative requirements.

EQUALITIES AND DIVERSITY:

51. There are no equality or diversity issues.

OTHER IMPLICATIONS:

52. There are no other implications.

NEXT STEPS:

53. No next steps are planned.

Contact Officer:

Colette Hollands, Head of Accounting and Governance.

Annexes:

1. None.

Sources/Background papers:

1. None.