

SURREY COUNTY COUNCIL

LOCAL PENSION BOARD



DATE: 10 NOVEMBER 2023

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

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|---|--|--|
| 1 | <b>McCloud regulations laid</b>  | The LGPS regulations to implement the McCloud remedy have now been laid and effective from 1 October 2023. More information on McCloud in paragraphs 10 to 16, 34, 35 and 38.  |
| 2 | <b>Investments and Climate Related Financial Disclosures highlighted</b> | DLUHC consultation on next steps for LGPS investing closed and SAB responds. In addition, the LGA publish a technical brief and submit written evidence to a Bill which will extend to LGPS investment decisions. More information can be found in paragraphs 17 and 21. |
| 3 | <b>All factors received following SCAPE discount rate change</b>         | Following change to the SCAPE discount rate, all batches of actuarial factors have been received. More information can be found in paragraphs 4, 5 and 15.   |

**LGPS updates**

4. Following the change on 30 March 2023 to the Superannuation Contributions Adjusted for Past Experience (SCAPE) rate, the third batch of factors were issued on 28 July for trivial commutation, inverse commutation, scheme pays for Annual Allowance and Lifetime allowance debits (necessary for calculating scheme pays debits if member elects at time retirement benefits are being processed).
5. The final batch of factors were issued on 2 October and are for Club transfers in and out, purchase of additional pension, conversion of Additional Voluntary Contributions (AVCs) transfer credits, conversion of AVCs to provide additional pension and purchase of additional survivor benefits. For members who are purchasing additional pension or additional survivor benefits under a contract which began before the revised factors came into effect (2 October), and the contract is due to expire after March 2024, will need to be contacted to advise of the change in factors and recalculated contributions will be collected from 1 April 2024 onwards, in line with the new factors.

6. The Department for Levelling Up, Housing and Communities (DLUHC) updated their form and guidance for the LGPS fund account return (SF3). The documents set out the data for 2022/23 that administering authorities needed to provide by 15 September 2023. DLUHC uses the information to provide a benchmark on administration and fund management and is also used in compiling the national accounts and to show the role of the LGPS in the economy.
7. The Local Government Association (LGA) have published free and interactive [bite-size training on ill health retirement](#) for employers.
8. The LGA have published [employer](#) and [member](#) frequently asked questions (FAQs) about strike action for LGPS members.
9. Booking is now open for the [LGPS Governance Conference 2024](#). The conference will take place on 18 and 19 January 2024 in York and can be attended in person or online. The conference is aimed at Councillors and others who attend pension committee/panels and local pension boards.

## McCloud

10. The DLUHC announced the outcome of the consultation on supplementary McCloud issues and draft regulations on 8 September. On the same day [The Local Government Pension Scheme \(Amendment\) \(No. 3\) Regulations 2023](#) were laid and took effect from 1 October. These regulations implement the McCloud remedy and amend the statutory LGPS underpin rules, ensuring younger members are also afforded protection, by removing the age discrimination and ensuring the underpin now works effectively and in line with the government's policy intent, following the McCloud judgement and the government's acceptance, that the discrimination found by the Court of Appeal, applied to all public service pension schemes.
11. To qualify for underpin protection members must meet the following criteria:
  - Been a member of the LGPS or another public service pension scheme (PSPS) on or before 31 March 2012 (the former PSPS benefits do not have to have been transferred to the LGPS) and,
  - Provided they do not have a subsequent continuous gap in membership of a PSPS of more than 5 years and,
  - Contributed to the LGPS at some point during the remedy period (1 April 2014 and 31 March 2022), or transferred in PSPS membership where the member contributed to the scheme during the remedy period and,
  - Were under age 65 during some, or all, of the remedy period.
12. The DLUHC have, or are:
  - Published a new version of the [McCloud member factsheet](#), which reflects the final regulations.
  - Issued a [McCloud initial prioritisation policy](#), with a final version being issued early next year.
  - In the process of setting up an implementation group to decide what other statutory guidance is required.
13. The LGA have, or are:
  - Working on a McCloud technical guide.
  - Will be hosting McCloud online surgeries, as well as in person breakout session at the Pension Managers' Conference in Torquay.
  - Created a new area in the [member website dedicated to McCloud](#).
  - In conjunction with the Communications working group, produced initial template paragraphs for member correspondence.

14. The Government Actuary's Department (GAD) are updating actuarial guidance to reflect the changes, which will be published by DLUHC as soon as it is available. As a result, for those who qualify for the underpin protection, the calculation of a transfer out will be different from 1 October 2023 and as the GAD guidance has not yet been issued, those transfers must be put on hold.
15. The Club Memorandum, used for calculating transfers between public service pension schemes, has also been updated to reflect the changes following the McCloud remedy, as well as the SCAPE rate review.
16. Further regulations will be needed to implement the remedy, primarily for excess teacher service and it is expected DLUHC will publish a consultation on these changes in 2024.

### **Scheme Advisory Board (SAB)**

17. The SAB published a statement setting out [some key principles](#) that will form the basis of its response to the DLUHC consultation on [LGPS: Next steps on investments](#), which closed on 2 October. The SAB also submitted their [full response](#) to the consultation on 2 October.
18. The Compliance and Reporting Committee (CRC) is a subcommittee of the SAB and was established following the disbandment of the Chartered Institute of Public Finance and Accountancy (CIPFA) pension panel in 2021. They have five workstreams looking at drafting new or updating existing statutory guidance, being good governance, knowledge and skills, funding strategy statements, audit issues and producing the Annual Report. The CRC has identified areas in the 2019 CIPFA 'preparing the Annual Report guidance' that require updating and clarification, along with streamlining where possible.
19. Another key area identified for improvement is how funds should report and categorise the allocation of assets, which has also been covered by the Department for Levelling up, Housing and Communities (DLUHC) consultation on LGPS investment reform. The proposal is for 'a single standard set of data on investments across Annual Reports and LGPS statistics'. The new guidance will suggest administering authorities follow a 'worked example' template provided by the SAB. This should improve consistency and aid with the process of producing the Annual Report.
20. The administrative Key Performance Indicators (KPIs) are also being reviewed, aiming for them to be better defined and allow for standardised reporting. This will also enable funds to benchmark themselves against others. It is hoped the guidance will be in place for the 2023/24 reporting period.
21. [The Economic Activity of Public Bodies \(Overseas Matters\) Bill](#) (also known as the Boycotts, Divestments and Sanctions Bill), had a second reading in the House of Commons on 3 July 2023. Serious concerns were raised about the Bill during the [debate](#) about rationale, practicability and whether it constituted a significant over-reach of Ministerial authority. The LGA have published a [technical brief](#) on the Bill and submitted [written evidence](#) on the Bill to the Public Bill Committee. The Scottish Scheme Advisory Board also sent [a letter](#) to the Committee about the Bill expressing concerns.
22. Following the LGPS Gender Pensions Gap report produced in January 2023, which identified a substantial difference between the average level of pension benefits built up by male and female scheme members, the Board asked GAD to explore the gaps in more detail, focusing on career patterns, differences relating to employers or categories of employers and comparing the analysis with the 2019 report.
23. GAD have provided their [findings](#) but concluded there is no simple answer as there appears to be a complex interaction between the types of work women do, their career patterns (including part time working and career breaks) and their ability to progress their careers after taking on childcare or other caring responsibilities.

24. As there is not a settled approach to data and methodological issues which would allow detailed comparisons to be drawn between gender gaps in the different public sector pension schemes, the Board has proposed that GAD puts in place a common reporting framework for all the public sector schemes. This could be worked into the quadrennial scheme valuation process and the Board believes that the relationship between gender pay and pension gaps reporting needs to be addressed to allow for greater transparency and understanding and have set up a small working group to consider next steps.
25. The SAB have published its [2022 Scheme valuation report](#), which is compiled from data from local fund valuation reports. This shows an improvement in the average funding levels since 2019.
26. The SAB have set up a small working group to look at the issues presented by the improving funding position across the Scheme. For example:
  - What impact could/should being in surplus have on employer contributions.
  - When is it appropriate to set a negative secondary contribution.
  - What impact could/should being in surplus have on investment and funding strategies.
  - How best to communicate being in a surplus position to employers and member representatives.
27. The Board is considering its own cost control mechanism and the assumptions on which the process is based. This follows changes made to HM Treasury's mechanism after a review by the Government Actuary and public consultation.

### **Pensions Dashboard Programme (PDP)**

28. [The Pensions Dashboards \(Amendment\) Regulations 2023](#) have been laid and a revised staging timeline will be set out in guidance, with all schemes needing to connect by 31 October 2026.
29. The Pensions Regulator (TPR) have updated their ['Failing to comply with dashboards duties'](#) guidance, outlining what schemes will need to do to demonstrate regard to the staging timetable.
30. The PDP continue to update and launch new [resources](#) along with a [newsletter](#) in August.
31. The Pensions Administration Standards Association (PASA) have also updated their [Dashboards Data Accuracy Guidance](#).

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

32. HMT published [The Public Service Pensions \(Valuations and Employer Cost Cap\) Directions 2023](#). The directions replace those previously published in 2014 and apply to the 2020 and later valuations.

### **HMRC**

33. HMRC released draft legislation and a policy paper [on abolishing the pensions lifetime allowance](#) from 6 April 2024, responses were asked for by 12 September and the LGA sent a [response](#). Within their response they have said they do not believe this will simplify the tax regime for the local authority workforce and other LGPS employers and is likely to cause confusion.
34. The Government laid [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No.2\) Regulations 2023](#), which came into force on 14 September 2023. These regulations address issues not dealt with in the first set of regulations ([The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023](#)), in relation to the McCloud remedy for the Public Service Pension Schemes.

35. HMRC has issued [guidance](#) to cover the second set of regulations, although the guidance has not been updated to reflect the final version of the regulations, but to assist with the guidance and explain any changes due to the consultation feedback, HMRC have published a [public service pensions remedy newsletter](#).

### **Department for Work and Pensions (DWP)**

36. The DWP published [results of the independent review of TPR](#), which found it is broadly well run and well regarded.

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

37. TPR published its [Annual report and accounts](#) for 2022/23.
38. TPR published guidance on annual benefit statements (ABS) for 2023 to 2025 in relation to the McCloud remedy for public service pension schemes. The guidance is primarily aimed at the other public service pension schemes where those affected by the McCloud remedy, will have to be rolled back into their 'legacy' scheme for the remedial period and will be offered a 'deferred choice underpin (DCU)' at retirement, this does not apply to the LGPS, where affected members will automatically have the underpin applied to their benefits. The guidance sets out TPR's expectations, but acknowledge this will be challenging and so will take a risk based approach when assessing and ABS breaches during 2023 to 2025.
39. TPR published a blog titled '[Why we are building relationships with pension administrators](#)' emphasising the importance of fostering closer relationships with administrators, allowing TPR to gain a better understanding of the challenges they face and address risks more effectively.
40. TPR launched a new industry facing campaign on LinkedIn encouraging trustees and administrators to not let scams go unreported.

### **The Pensions Ombudsman (TPO)**

41. The TPO published a [member factsheet](#) outlining what members should do if they have a complaint about receiving incorrect information.

### **Other news and updates**

42. [The Finance \(No.2\) Act 2023](#) received Royal Assent on 11 July 2023, this delivers the tax changes announced in the Spring Budget.
43. National LGPS Frameworks intends to launch a new framework for AVC services later this year.
44. The PASA published new [data guidance on benefit accuracy](#) for defined benefit (DB) schemes building on from their previous guidance on [data quality](#).
45. The Money and Pensions Service (MaPS) published its [review of the evidence on the scale of pension scams in the UK](#).
46. The Pensions (Extension of Automatic Enrolment) Act 2023 has received Royal Assent and gives the UK Government the power to make regulations that will lower the minimum age for automatic enrolment from age 22 to 18 and remove the lower earnings limit for contributions. The UK Government will shortly launch a consultation on implementing the changes.

<b>CONSULTATION:</b>
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47. The Chair of the Local Pension Board has been consulted on this report.

**RISK MANAGEMENT AND IMPLICATIONS:**

48. None.

**FINANCIAL AND VALUE FOR MONEY IMPLICATIONS**

49. None.

**DIRECTOR OF FINANCE, CORPORATE AND COMMERCIAL COMMENTARY**

50. 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**

51. None.

**EQUALITIES AND DIVERSITY**

52. There are no equality or diversity issues.

**OTHER IMPLICATIONS**

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

**WHAT HAPPENS NEXT**

54. No next steps are planned.

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**Contact Officers:**

Sandy Armstrong      Technical Manager  
Paul Titcomb          Head of Accounting and Governance

**Consulted:** Local Pension Board Chair

**Annexes:** None

**Sources/background papers:** None

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