

## **Administration and regulatory updates**

**Responsible Officer** Debbie Sharp

Email: [debbie.sharp@shropshire.gov.uk](mailto:debbie.sharp@shropshire.gov.uk)

Tel: 01743 252192

1. **Summary**  
The report provides Pension Board Members with the latest administration and regulatory updates affecting the Local Government Pension Scheme (LGPS).

2. **Recommendations**  
Pension Board Members are asked to note the contents of this report.

## **REPORT**

3. **Risk Assessment and Opportunities Appraisal**
  - 3.1 **Risk Management**  
By ensuring the guidance and legislation mentioned in this report is followed and adhered to risks to the Fund are minimised. A Risk Register is kept and updated in line with Council Corporate Policy.
  - 3.2 **Human Rights Act Appraisal**  
The recommendations contained in this report are compatible with the Human Rights Act 1998.
  - 3.3 **Environmental Appraisal**  
There is no direct environmental, equalities or climate change consequence of this report.
  - 3.4 **Financial Implications**  
Currently there are no direct financial implications arising from this report.
4. **Administration topics covered at Pensions Committee since the last Pensions Board meeting**
  - 4.1 In addition to this report the Pensions Board are advised to note the Pensions Administration Reports submitted to the pension committee meetings held on 30 November 2018 and the 15 March 2019.

## 5. Exit payments consultation

- 5.1** The government announced on 23 May 2015 that it intended to pass legislation to cap exit payments for public sector workers and issued a consultation. In September 2016, the government published their response to the consultation called 'Reforms to public sector exit payments' which outlined the government's expectations that departments should begin work to produce proposals for reform for each workforce by the end of 2016. The Enterprise Act 2016 was drafted to be used to implement the changes but have not yet been brought into effect.

On 10 April 2019 HM Treasury announced a further consultation on limiting exit payments for public sector workers. The consultation documents can be found at:

<https://lgpsregs.org/landscape/consultations.php>

The LGA briefing document can be found in **Appendix A**. The key points in the latest consultation are:

- Proposal that the maximum exit payment will be capped at £95,000
- The cap will apply to a wide range of public sector employers, including employees of councils in England and Wales, fire authorities, police forces, academies and maintained schools.
- The £95,000 cap will include the value of any early retirement strain payments, and it is envisaged that the ability to take an unreduced early retirement pension will therefore be severely restricted in some cases.
- Certain employers in the LGPS e.g. Universities and Colleges appear not to be covered by the proposals which will mean members would be treated differently within the LGPS depending on their employer on exit.

There will be provisions for the cap to be waived in some circumstances. However, the tone of the consultation makes clear that any waiver is expected to be the exception rather than the norm, and that there is a "high bar" for them to be justified (e.g. subject to ratification by the full council in relation to a local authority).

- 5.2** There are details to be ironed out in relation to the LGPS in England and Wales therefore Ministry of Housing, Communities and Local Government (MHCLG) is expected to run a separate consultation, which will cover amongst other things the agreement and implementation of a common costing methodology and factors for strain payments.

- 5.3** Both members and employers have been given regular updates about the proposals since they were first announced in May 2015 including a statement of the latest position in all benefit quotes.

## **6. Other consultations**

- 6.1** Two further consultations have been issued recently. The first was MHCLG's long awaited consultation on draft Regulations introducing New Fair Deal into the LGPS in England and Wales. Replacing the Best Value Direction 2007 and Welsh Authorities Staff Transfer Direction 2012.
- 6.2** Fair Deal sets out how pension issues should be addressed when staff are compulsorily transferred from the public sector to contractors providing public services. The current protections are that employees who are contracted out should be given continued access to the LGPS or be offered access to a broadly comparable scheme.
- 6.3** In July 2012 Government announced a New Fair Deal policy which requires continued access to public service schemes and removed the broadly comparable option. Whilst Fair Deal applies to academies, it does not apply to LGPS employers subject to the Best Value Direction nor the Welsh equivalent. Following a previous consultation on LGPS changes in May 2016 and publication of Government's response in April 2018, a further consultation has been published setting out how the Government proposes to translate new Fair Deal into the LGPS in England and Wales. The consultation also proposes an automatic transfer of LGPS assets and liabilities to a successor body where an exiting LGPS employer is taken over or is part of a merger. The consultation closed on 4 April 2019. The LGA's response to the consultation can be found at:

<http://www.lgpsregs.org/schemeregs/consultations.php>

The Fund responded and was also part of the technical response sent on behalf of all national LGPS Funds.

- 6.4** The second consultation issued by MHCLG concerned the implementation of new late retirement factors and calculation methodology. The consultation document was issued with the following commentary from MHCLG:

*'The Secretary of State for Housing, Communities and Local Government is required to issue actuarial guidance on late retirement increases to benefits payable after normal pension age. Though we do not normally consult on the content of actuarial guidance notes, in this instance we intend to do so because we are proposing a significant change to the methodology by which late retirement factors are calculated. We are also aware that these are factors that act as a multiplier for a member's accrued benefits and so tend to be the subject to great scrutiny and interest by members and their representatives. It is not our intention to consult on the other guidance notes when these are revised later this year.'*

**6.5** The proposals within the consultation include a change in methodology as well as a change in factors which is intended to remove the 'cliff edge' that was the result of the last factor change in January 2017 for some members. The consultation was issued on 28<sup>th</sup> March 2019 but closed on Wednesday 17 April 2019. Due to the very short timeframe of this consultation, no response from the Fund was able to be provided.

**6.6** Further information will be provided on all consultations once known.

## **7. LGPS cost management**

**7.1** A new mechanism was introduced under the Public Service Pensions Act 2013 for HM Treasury (HMT) to control unexpected changes in the cost of public service pensions – this cost control mechanism is known as the 'employer cost cap'. This was introduced to offer taxpayers and employees protection from unexpected changes in pension costs where the value of the pension scheme to employees has changed from the levels set when reformed public sector pension schemes were introduced in 2015 (2014 for the LGPS). If the cost changes steps must be taken to return costs to the level set under the reforms.

**7.2** The cap applies to significant unexpected increases in "member costs" i.e. increases in cost relating to assumptions about the profile of members, such as life expectancy, growth in salaries or career paths. Where costs rise above or fall below the cap, the legislation requires action to bring them back to the target. The LGPS in England and Wales also has a separate cost management process which is completed independently of the HMT public sector cost cap calculations. HMT calculations are on hold at present – see below.

**7.3** On 21 December 2018, a cost management update on behalf of Scheme Advisory Board was released with SAB proposing an improvement to benefits equating to 0.5% of payroll, taking the cost back up to the long term target of 19.5% of payroll.

**7.4** On the same day it was reported that the Court of Appeal held that transitional protections that protected older judges and firefighters from the public sector pension scheme changes in 2015, were unlawfully discriminatory. This case is known as the 'McCloud case'.

**7.5** Following the judgment, on 30 January 2019 the Government published a written statement that paused the HMT cost management process for public service pension schemes, pending the outcome of the application to appeal the McCloud case to the Supreme Court.

**7.6** On 8 February 2019, SAB confirmed it had no option but to pause its own cost management process pending the outcome of McCloud. As a result there are currently no changes to benefits planned in respect of the cost management process (either the LGPS process or HMT process) from 1 April 2019. This situation will be reviewed once McCloud is resolved which is not expected for some months.

- 7.7** The cost management page of the SAB website has been updated with all of the background information to the above. A Q&A which sets out potential timescales and possible outcomes of the McCloud case, and its impact on the cost cap process can be found at:

<http://www.lgpsboard.org/index.php/structure-reform/costmanagement/ccmcloud>

## **8. Actuarial Valuation**

- 8.1** The Fund is preparing for the 31 March 2019 Actuarial Valuation. Initial meetings with the Actuary have taken place and employers have received instructions for data requirements. A meeting is to be held on Friday 15<sup>th</sup> November to provide initial results to employers.
- 8.2** In February 2019, Administering authorities were asked to inform the SAB about their preference concerning the approach to the 2019 valuation. Specifically, whether administering authorities would prefer to receive guidance from the SAB on how McCloud / cost management should be taken account of in the 2019 valuation or if they would prefer to determine their own approach, taking advice from their actuarial adviser. The majority of Funds expressed a preference to receive central guidance and work has now begun by SAB to produce that guidance.

## **9. SCAPE discount rate - change to actuarial guidance**

- 9.1** It was previously reported to members that due to the 2018 Budget issued on the 28<sup>TH</sup> October a change to the SCAPE rate was reported and this triggered changes to the actuarial factors used across the LGPS and other public sector pension schemes.
- 9.2** On 9 January 2019, MHCLG had issued revised factors, effective from 8 January 2019 with transitional arrangements for certain events happening from/after the 8<sup>th</sup> January:
- non-club transfers in.
  - early retirements.
  - trivial commutations.
  - pension credits (where the debited member left the LGPS prior to 1 April 2014 or the transfer date is prior to 1 April 2014).
  - pension debits (pre and post 2014).
- 9.3** On 29<sup>th</sup> March 2019 a revised version of the Club Memorandum, including new Club transfer factors, was published including the new club factors that came into effect for transfers from 1 April 2019.
- 9.4** However, on the 15<sup>th</sup> March 2019 new factors were issued for the purchase of additional pension contracts that had been previously entered into:

- Additional pensions for elections before 1 April 2012, and
- Additional pensions for elections between 1 April 2012 and 31 March 2014

**9.5** The revised factors affect members who have already contracted to purchase additional pension benefits or are paying additional pension contribution to cover any lost pension through absence etc. All members affected by the factor change (effective from 1<sup>st</sup> April) will need their additional pension contract recalculating, and communicated to them and their employers.

**9.6** The Fund has 25 members affected by the additional pension factor change and is working on calculating each new additional pension contribution amount. As the factors weren't issued in time for members to be informed of the additional sums due for 1<sup>st</sup> April and due to the complexities of back-dating the revised contributions, as employers had already calculated April's salary payments, they will be implemented from the next available pay date after the member has been contacted.

**9.7** All revised factors have been updated in the pension administration system.

**9.8** The Fund has received 1 complaint regarding the change in factors for a Trivial Commutation case due to the factors changing earlier than expected. A quote was given in November of the likely payment but the early factor change reduced the sum due by £2,000.

## **10. LGPS (Miscellaneous Amendment) 2018 Regulations**

**10.1** As previously reported, MHCLG opened a consultation called 'LGPS: technical amendments to benefits' which closed on 29 November 2018. On 18 December 2018, the LGPS (Miscellaneous Amendment) 2018 Regulations were laid before parliament.

**10.2** The regulations came into force on 10 January 2019 but the provisions listed specifically in regulation 1(2)(a), 1(2)(b)(i) and 1(2)(b)(ii) have effect from 17 April 2018, 5 December 2005 and 13 March 2014 respectively. The regulations amend the LGPS 2013 Regulations<sup>1</sup> and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014<sup>2</sup>, by:

- introducing a general power for the Secretary of State to issue statutory guidance
- making a technical amendment to allow early access to benefits between the age of 55 and NRD (as defined by the LGPS Regulations 1995), for deferred members who left before 1 April 1998

- addressing the Walker v Innospec judgment by providing that survivors of registered civil partners or same sex marriages are provided with benefits that replicate those provided to widows.

**10.3** The Fund communicated with all deferred members in 2018 regarding the changes to allow early access to benefits and took the stance of 'policy intent' when any queries were received from members who left before 1 April 1998 who were, according to the original amendment regulations, unable to access their benefits the same as all other members due to the specific wording in the regulations.

**10.4** Investigations have also been done to revisit calculations of pensions paid to surviving civil partners and same sex spouses where any additional amounts may be due. The Fund has not identified any cases which require recalculation and is awaiting statutory guidance with regard to any further adjustments that may be due e.g. to CETVs, trivial commutations paid to surviving civil partners and same sex spouses and trivial commutations paid to members where the member was in a civil partnership or married to a same sex spouse at the date of payment. MHCLG have confirmed they will issue statutory guidance to assist administering authorities in this exercise.

## **11.1 Mortality and member tracing service**

**11.2** As previously reported, the Fund has used a national Local Government Pension Scheme Member Data framework which covers:

- Address Tracing and Correction Services.
- Mortality Screening Services.
- Overseas Address Tracing and Correction Services.
- Overseas Mortality Screening Services

Companies on the framework have been analysed and compared and a provider will be procured through the direct award approach allowed by the framework procedure.

## **12. Administration in the LGPS**

**12.1** CIPFA and Aon have recently produced a guide called 'Administration in the LGPS' which can be found at **Appendix B**. It highlights some of the administration challenges all LGPS Funds face and provides suggested information on improvements to the service. Officers are reviewing this document.

## **13. SAB work on standard list of Scheme Specific data**

**13.1** As previously reported, the Fund submitted the 2018 Pensions Regulator Scheme Return with data scores after measuring both common and scheme specific data. As guidance hadn't been issued by SAB the Fund used TPR guidance and worked with the software

supplier as a pilot Fund to run data quality tests. As a result, a data improvement plan was put in place to address the issues found.

- 13.2** Data quality tests are due to be run again in June 2019 – originally this was scheduled for March 2019 but it was decided a later date would be preferred to allow the processing of year-end to be completed to ensure the most up-to date data from employers had been received.
- 13.3** The Communications and Governance Team Leader has attended a meeting Chaired by Bob Holloway; Pensions Secretary of the LGA who supports SAB, The Pensions Regulator, Fund Actuaries, and software suppliers to discuss creating scheme specific data tests which all 89 LGPS Funds can use to measure their data against for the 2019 return. It is SAB's intention to be able to have the guidance available for release to Fund's by the end of May.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Item 14 – Pensions Committee Meeting 15<sup>th</sup> March 2019 - Pension Administration Monitoring

Item 8 - Pensions Committee Meeting 21 September 2018 – Pension Administration Monitoring

Item 6 – Pensions Board meeting 16<sup>th</sup> November 2018 - Administration and Regulatory updates

**Cabinet Member (Portfolio Holder)**

N/A

**Local Member**

N/A

**Appendices**

Appendix A – Exit cap LGA briefing document

Appendix B - Administration guide