

Local Government Pensions Committee  
Secretary, Lorraine Bennett

## LGPC Bulletin 176 – September 2018

Please contact [Jayne Wiberg](#) with any comments on the contents of this bulletin or with suggestions for other items that might be included in future bulletins.

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## Scheme Advisory Board (SAB) - England & Wales

### Analysis of the LGPS Academy Sector

GAD has now published the work commissioned by MHCLG and DfE to review the treatment of academies within the Local Government Pension Scheme. In particular, GAD was asked to gather evidence on the variation in treatment of academies within and across different LGPS Funds. Data from the most recently completed valuations as at 31 March 2016 was obtained for this purpose. A copy of the report can be found at <https://www.gov.uk/government/publications/academies-lgps-pension-arrangements>”

### Code of Transparency compliance system tender exercise

On 3 September 2018, the Scheme Advisory Board launched a "Code of Transparency compliance system" tender exercise. The tender is to design, build, host and support a system to validate / check for completion the templates received from the relevant fund managers for each of the relevant LGPS funds and or Pools. Delta eSourcing is being used to run this exercise, please visit [www.delta-esourcing.com/respond/R87C47F5VR](http://www.delta-esourcing.com/respond/R87C47F5VR) for more details.

### Options for separation of host authority and pension fund

In 2015, SAB commissioned KPMG to undertake a project to examine the issues and challenges of separating the pension's functions of LGPS administering authorities from their host authorities. As part of SAB's 2018/19 work programme, a further project was established to see how the recommendations that emerged from the exercise undertaken in 2015 could be made to work in practice.

In August 2018, SAB invited interested parties to assist in developing options for change. Three bids were received before the closing date of 21 September. These will be considered at the next Board meeting on 10 October. For more information, see the SAB [website](#).

### Third tier employers

At the SAB meeting on 27 June 2018, Aon presented members with a summary of the [final draft report](#) commissioned by SAB, to review the current issues in relation to third tier employers participating in LGPS funds in England and Wales. On 24 September 2018, SAB published this report on their [website](#).

The report **does not** make any recommendations, instead, it outlines a range of issues raised by stakeholders and how they envisage these concerns being resolved. SAB will now establish a small working group to evaluate the options for change. The working group will report to SAB later this year with a set of recommendations for further consideration.

Once approved, stakeholders will be given the opportunity to comment on SAB's recommendations before any formal approach is made to MHCLG for changes to the scheme regulations and guidance.

## HMRC

### HMRC Approved Phase 7 Automation Re-run timetable

On 14 August 2018, HMRC published [Countdown bulletin 36](#) that included an article on the proposed timetable for the phase 7 automation (re-runs of existing solutions and scheme financial reconciliation). The [timetable](#) has now been confirmed and Jayne Wiberg sent this to administering authorities on 26 September 2018.

### Pension Saving Statements 2017/18

On 13 September 2018, Lorraine Bennett forwarded confirmation from HMRC that scheme data regarding pension savings statements (PSS) for 2017/18 can be submitted on an excel spreadsheet rather than through the scheme's event report. This concession is on the clear understanding that the PSS data represents part of the administering authority's formal event reporting obligations for the 2017/18 Report. The data must be submitted by 31 January 2019 or penalties will be due for late filing.

### Pension Schemes Newsletter 103

On 25 September 2018, HMRC published [pension schemes newsletter 103](#) including articles on:

- Updating your scheme administrator details
- Operating PAYE on pension payments
- Master Trusts
- Reporting of non-taxable death benefits
- Annual allowance - pension savings statements for tax year 2017 to 2018

## HMT

### HM Treasury statement on quadrennial scheme valuation of public service pension schemes

On 6 September 2018, in a [Written Ministerial Statement](#) the Chief Secretary to the Treasury, Elizabeth Truss, announced details of the quadrennial national scheme valuation of public service pension schemes.

For the unfunded schemes, initial results from the HMT Employer Cost Cap (ECC) process show that their members will get improved pension benefits over the period April 2019 to March 2023. In addition, due to the proposed changes to the SCAPE discount rate, which is used to assess the current cost of future payments from public service pension schemes (excluding Local Government Pension Schemes (LGPS)), early indications are also that the amount employers pay into the unfunded schemes will need to increase.

In the case of the funded LGPS in England and Wales, the Scheme Advisory Board England & Wales (SAB E&W) operates an additional cost cap process (called the Scheme Advisory Board Future Service Cost (FSC) process). In accordance with agreed policy, the FSC will be allowed to complete before the ECC is tested. Therefore, it is not possible at this stage to give any indication of what the outcome might be. If the FSC process results in a recommendation that changes to the scheme

should be made and the government accepts the SAB E&W recommendations, the ECC process will be adjusted to consider the new scheme design.

The Chief Secretary also announced in the [technical annex](#) to a [letter](#) to Frances O'Grady at the TUC, that the scheme valuation under ECC process should be moved from the current triennial to a quadrennial cycle in line with other public service scheme valuations. This is not to be confused with local fund valuations; however, discussions with MHCLG and actuarial advisers will take place shortly to consider the implications of this change for local fund valuations.

A statement from the SAB E&W can be found at [www.lgpsboard.org](http://www.lgpsboard.org).

### **Draft Public Service Pensions (Valuations and Employer Cost Cap) (Amendment) Directions 2018**

On 6 September 2018, HM Treasury issued the above [draft amendments](#) to the Public Service Pensions (Valuations and Employer Cost Cap) Directions 2014. The draft Direction (and the 2014 Direction) set out the principles relating to the national public service pension scheme valuations and the HMT ECC process for public service schemes.

There are a number of amendments within the draft Direction, though one of particular importance is the proposal to further reduce the SCAPE discount rate (which sits outside of the HMT ECC). The draft Direction reduces the SCAPE discount rate to CPI + 2.4% (from CPI + 2.8% which had already seen a reduction in 2016 from CPI + 3%).

The Direction is in draft form to allow employee representatives, public service employers and government departments' time to comment.

Whilst the draft directions propose using the discount rate of CPI + 2.4% from 1 April 2019 for setting employer contribution rates for the unfunded pension schemes, the reduced rate will become effective for other purposes (such as in the calculation of actuarial factors in the LGPS) from the date it is formally announced. We expect the announcement will be made in the next Budget, which is set to take place on 29 October 2018.

As last time, once the change is announced, transfer and interfund calculations will need to be put on hold until new actuarial factors are issued. Similar transitional arrangements will be put in place where a guaranteed transfer quote has been issued and the member elects to proceed with the transfer in the guarantee period. The transitional arrangements that were put in place when the last discount rate change was announced on 16 March 2016 can be viewed here <http://lgpslibrary.org/assets/actgui/ew/Note201610.pdf>

We understand that GAD are working upon a new suite of LGPS factors that include the proposed change to the SCAPE discount rate.

## **TPO**

### **Clearer signposting for pension dispute resolution**

In [bulletin 170](#) we reported changes to the way pension disputes should be signposted. However, there was some confusion across the industry due to existing legislation, resulting in the danger that pension schemes were failing to update their signposting. Discussions took place between TPO, TPR and DWP on how best to resolve this problem.

The outcome of those discussions resulted in a [joint statement](#) from DWP and TPR to clarify the [signposting provisions](#) for referring to TPO and TPAS. To confirm, TPAS deals with guidance requests and TPO deals with all complaints and disputes. Therefore, with the aim of improving the customer journey and resolving matters earlier, DWP and TPR recognise that schemes do not want to wait until legislation is in place and that they wish to update their signposting now, to reflect that:

- Complaints or disputes concerning workplace or personal pension arrangements should be referred to TPO; and
- General requests for information or guidance should be referred to TPAS.

In the joint statement, TPR confirms that, despite the current absence of legislation, there would be no purpose served in considering penalties for schemes referring disputes and complaints to TPO that have not first gone through the scheme's internal dispute resolution process (IDRP). TPO considers this excellent news for both the pensions industry and its customers. It also believes that it is a very sensible interim measure, especially with the formation of the new Single Financial Guidance Body later this year and necessary legislative change not expected until 2019, when parliamentary time allows.

Going forward it is the intention to modify relevant legislation by at the latest April 2020, to reflect that:

- Signposting of complaints or disputes concerning occupational or personal pension arrangements, including any difficulty with the scheme that cannot be resolved or that might become a complaint or dispute, should be referred to TPO; and pure requests for information or guidance should be referred to TPAS/SFGB; and
- Complaints going to TPO that are intended for ERS (TPOs Early Resolution Service), or looked at by ERS, will not be expected by TPO to have first been through the scheme's IDRP.

Administering authorities can find the TPO [news story](#) on TPO's website, which has links to the joint statement and their signposting template.

### **Guidance on redress for non-financial injustice**

In September 2018, TPO issued [revised guidance](#) about redress for applicants for non-financial injustice caused by maladministration, replacing their previous guidance on this topic.

Following consultation with various stakeholders TPO have introduced five categories of awards for non-financial injustice (i.e. 'distress and inconvenience' awards) ranging from nominal (no award) to exceptional (more than £2,000).

The guidance defines non-financial injustice as:

*“**Inconvenience**’ or ‘time and trouble’ suffered by an applicant. That is the time and effort spent by an applicant in relation to the maladministration and in having to pursue their complaint. This includes needing to go through a complaints process where the maladministration was both avoidable and identifiable at an earlier stage.*

*‘**Distress**’ suffered by an applicant. It could, for example, be concern, anxiety, anger, disappointment, embarrassment or loss of expectation that an applicant may experience. Distress can vary from mild irritation to (exceptionally) anxiety that requires medical treatment.*

*The non-financial injustice suffered must be caused directly by the maladministration.”*

Further information is available on the [TPO website](#).

### **PO-20770 / Mr E v Greater Manchester Pension Fund (GMPF)**

The above [case](#) was determined by the Ombudsman on 29 August 2018 and was found in favour of GMPF.

The claimant’s complaint against GMPF concerned the fact that he believed that GMPF had not met its statutory obligations to inform him there was a material change to the Scheme, regarding a change to the late retirement factors. The claimant contested that had he been aware of the changes he would have acted to avoid being affected.

The case focussed on whether or not a change in late retirement factors constituted a material change in the information listed in Part 1 of Schedule 2 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [[SI 2013/2734](#)]. A TPO Adjudicator (and thereafter the TPO) confirmed that the definition of a, “material change” under the Disclosure Regulations applicable to GMPF, relates to the rate at which pension is accrued or how it is calculated. In the claimants case the change was the reduction to the late retirement factors, and this did not fall within the definition of a, “material change” under these Disclosure Regulations.

## **TPR**

### **New approach to workplace pensions regulation**

On 17 September 2018, TPR launched a [new approach to workplace pensions regulation](#). The flexible new model accommodates DB, DC and PS schemes, as well as incorporating AE and master trusts. This new operating model directly affects the way TPR works and will be established over the next 12 – 18 months.

To date, TPRs approach has been to ‘educate, enable, and enforce’, which has worked well, though no longer accurately reflects how the TPR operates in an ever evolving political, economic and pensions landscape.

Through their [TPR Future programme](#), they have completed a review of their entire approach to regulation and this year have started to implement a new regulatory model to drive up standards and tackle risk by engaging proactively with a larger proportion of the schemes and employers that they regulate.

Four key areas form the bedrock of TPRs new operating model, which will help them take forward the work they want to achieve and do it in the most effective way, these are:

1. **Setting clear expectations:** TPR will work with those they regulate to ensure that the standards they expect are clear and adopted. They will ensure that pension schemes and employers comply with clear, measurable standards.
2. **Identifying risk early:** TPR will prevent risks to members from increasing over time through prioritisation, monitoring, supervision and early proactive intervention.
3. **Driving compliance through supervision and enforcement:** TPR will use a wider range of regulatory interventions through a process of systematic and escalating interaction with those they regulate. They will test, measure and adapt the way they work to continue to drive behavioural change.
4. **Working with others:** TPR will work with their regulatory partners, stakeholders, advisers and intermediaries to deliver a comprehensive and consistent regulatory framework.

TPRs ['Making workplace pensions work'](#) publication, guides users through their new way of operating and outlines the further changes that users can expect to see in the future. Key to the new approach is the introduction of a supervision regime to monitor schemes more closely, which will include higher and lower intensity interventions depending on the risks identified.

## Other News and Updates

### Communications working group

In September 2018, a meeting of the national communications working group took place. Topics of discussion included, the General Data Protection Regulations (GDPR), the national member website (including member videos), annual benefit statements, AVCs FAQ, pension scams and the communications work plan for 2018/19. See the [actions and agreements](#) for more information.

The proposed date of the next meeting is 15 January 2019.

### LGA pensions team

Further to our article in [bulletin 175](#) concerning the LGA LGPS pension's team, the LGA is pleased to confirm that Lorraine Bennett has been promoted to the role of senior pensions adviser. Accordingly, Lorraine will become Secretary to the LGPC with immediate effect.

The LGA is currently recruiting for a part time pensions adviser with interviews to take place shortly. Additionally, the LGA will also be recruiting for a full time pensions adviser to replace Lorraine's previous role. This post will be advertised shortly on [jobtrain](#).

Meanwhile, until such a time those new team members are appointed we request that administering authorities and employing authorities only send urgent technical queries. Please email all queries to [query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk).

## NI Database

On 6 September, Lorraine Bennett emailed pension managers in England, Wales and Scotland about extending the usages of the NI Database.

Each fund was asked to respond to the email by **Friday 21 September** confirming:

- If your organisation is in agreement that the usages of the NI Database should be extended
- If yes, that your organisation is committed to signing the revised ISA (subject to agreement) and uploading data on a monthly basis

***If your fund has not yet responded, please do so ASAP.***

## Background

The National Insurance Database (NI Database) was launched in 2015 with the aim of preventing the double payment of death grants and facilitating the Tell Us Once Service for LGPS administering authorities. As at 6 September 2018, 79 funds have uploaded data to the LGPS Database and 67 funds are fully on-boarded for Tell Us Once.

In order to use the LGPS Database each fund must sign an Information Sharing Agreement (ISA). The current ISA is an agreement between the “fund”, South Yorkshire Pensions Authority (who host the database) and the LGA.

## Proposal

The ISA needs to be reviewed and potentially updated to ensure it is GDPR compliant. This provides a good opportunity to expand the usages of the database at the same time. The potential additional usages for the database are summarised below:

- To check for previous LGPS membership when a member re-joins the LGPS with a view to automatically aggregating that membership as required by the LGPS 2013 Regulations
- To check if the member is entitled to a refund of contributions
- To check if a member has other rights that would either prevent payment of, or need to be taken into account when assessing the eligibility for, trivial commutation
- To check if a member has a statutory right to a transfer out in accordance with the Pension Schemes Act 1993
- Tracing lost members

The [technical group paper](#) sets out these options in more detail along with the data protection implications. It also confirms that no new data will need to be stored on the LGPS Database in order to make data sharing for these purposes effective.

***To clarify, funds are not currently permitted to use the database for any other purpose other than for preventing the payment of double death grants.***

## Next steps

The ISA will need to be updated in order for funds to be able to use the database for the additional usages outlined above. This means that every fund will need to sign an updated ISA. At this stage we are asking funds whether they agree to extending the

usages in principle so that we can make the necessary amendments to the ISA. Once amended, we will then contact each fund again asking them to sign the updated ISA. Please note, we will not be able to proceed with the changes unless 100% of funds agree.

### **Written Statement - update on the Pensions Dashboard and the Single Financial Guidance Body (SFGB)**

On 4 September 2018, Guy Opperman (Parliamentary Under Secretary of State for Pensions & Financial Inclusion), provided a pension update in a written statement to House of Commons.

The statement confirms that in the government's view "*the work that the Department for Work and Pensions has done in assessing feasibility for a pensions dashboard has made it clear that we should not underestimate the size or complexity of the challenge. An industry-led dashboard, facilitated by government, will harness the best of industry innovation.*" It goes on to confirm that the government "*will continue to engage with industry on this model and Government will protect pension savers and personal information by legislating where necessary. This will build on the Government's 'Check your State Pension' online service for the State Pension. We will shortly report on the findings from the Feasibility Study.*"

The statement also reports that the [Chair](#) and [Chief Executive](#) of the new Single, Financial Guidance Body (SFGB) have been appointed and that DWP expect to establish the body as a legal entity in October when they take up their roles. The SFGB will then launch in January when it takes on its delivery functions of money and pension guidance, and debt advice.

## **Training**

### **Circular 310 – LGPS Governance Conference**

The 15<sup>th</sup> annual LGPS governance conference (formerly the trustee conference) is held on 17/18 January 2019 in Bristol. Please see [circular 310](#) for costs and booking information.

The conference is aimed at elected members and others who attend pension committees and local pension boards e.g. employer representatives, trade union and other member representatives, as well as officers. It is suitable for an audience with a wide range of knowledge and experience. Although the programme is not yet finalised, we can confirm that it will include sessions on:

- Investment costs
- Responsible Investment and Climate Risk
- Infrastructure investment
- Fund valuation
- Upcoming scheme consultations
- Investment spotlight
- Legal update

### **Circular 309 – Fundamentals Programme**

Please note that London dates are now fully booked however, places are still available at both Leeds and Cardiff. Please see [Circular 309](#) for costs and booking information.

## The wider landscape

### Financial Guidance and Claims Act 2018

In [bulletin 170](#), we confirmed that on 10 May 2018, the Financial Guidance and Claims Act 2018 ('the Act') received royal assent and introduced a new Single Financial Guidance Body (SFGB). In addition, the Act made provision about the funding of debt advice in Scotland, Wales and Northern Ireland, and regulated the claims management services.

On 6 September 2018, the Financial Guidance and Claims Act 2018 (Commencement No. 1 and Transitional Provision) Regulations 2018 [[SI 2018/987](#)] were made, bringing into force section 35 (cold calls and claims management services) of the Act on 8 September 2018.

Section 35 of the Act amends the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("the 2003 Regulations"). Essentially, this prohibits unsolicited marketing calls from claims management services (i.e cold calls) to recipients, unless the recipients have previously opted in to receiving them. Transitional measures within the commencement order, exclude calls made prior to 8 September from prohibition.

On a slightly different note, though still in relation to 'cold calling', the consultation covering a ban on cold calling in relation to pensions closed on 17 August 2018 (see [bulletin 170](#)). This will be followed by a consultation response with the intention of laying regulations in the autumn of 2018.

## Legislation

### United Kingdom

SI	Reference Title
<a href="#">2018/1030</a>	The Occupational Pension Schemes (Master Trusts) Regulations 2018
<a href="#">2018/1003</a>	The Financial Guidance and Claims Act 2018 (Commencement No 2) Regulations 2018
<a href="#">2018/997</a>	The Police and Firefighters' Pensions (Amendment) Regulations 2018
<a href="#">2018/988</a>	The Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations 2018
<a href="#">2018/987</a>	The Financial Guidance and Claims Act 2018 (Commencement No 1 and Transitional Provision) Regulations 2018

<a href="#">2018/983</a>	The Occupational Pension Schemes (Master Trusts) Regulations 2018
<a href="#">2018/965</a>	The Pension Schemes Act 2017 (Commencement No 2) Regulations 2018

## Useful Links

[LGA Pensions page](#)

[LGPS member website](#) (England and Wales)

[LGPS 2015 member website](#) (Scotland)

[LGPS Advisory Board website](#) (England and Wales)

[LGPS Advisory Board website](#) (Scotland)

[LGPS Regulations and Guidance website](#) (England and Wales)

[LGPS Regulations and Guidance website](#) (Scotland)

[Public Sector Transfer Club](#)

[Recognised Overseas Pension Schemes](#) approved by HMRC and who agreed to have their details published.

## LGPS pensions section contact details

***If you have a technical query, please email [query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk) and one of the team's LGPS pension advisers will get back to you.***

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**Distribution sheet**

Pension managers (internal) of administering authorities

Pension managers (outsourced) and administering authority client managers

Local Government Pensions Committee

Trade unions

CLG

COSLA

SPPA

Regional Directors

Private clients

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