

Local Government Pensions Committee

Agenda

11am – Monday 8 July 2019

Item		Timings
1	Introduction from interim chair	11:00
2	Apologies for absence and declarations of interest	11:05
3	Minutes of meeting held on 8 April 2019 - Paper A	11:10
4	Matters arising - the LGPC community document - Paper B	11:15
5	LGPC budget - Paper C	11:25
6	LGPC response to the 'Changes to the Local Valuation Cycle and the Management of Employer Risk' consultation Paper D	11:35
7	Regulations update for England and Wales - Paper E	11:45
8	SAB update for England and Wales - Paper F	11:55
9	Regulations update for Scotland - Paper G	12:05
10	Regulations update for Northern Ireland - Paper H	12:15
11	Update from Technical Group - Paper I	12:25
12	Training and annual conference update	12:35
13	Any other business and date of next meeting	12:40
14	Dates of future meetings: 4 Nov 2019 / 3 Feb 2020 & 11 May 2020	

Meeting location – 18 Smith Square, London, SW1P 3HZ Rooms 3 and 4 - Ground floor

LGPC MINUTES

MEETING HELD ON 8 APRIL 2019

PRESENT

Cllr D Le Gal	Chair & Scheme Advisory Board
Cllr G Edwards	LGA
Cllr J Fuller	LGA
Cllr A Paynter	LGA – Dial in
Cllr D Renard	LGA
Cllr S Blackburn	LGA
Cllr S Taylor	LGA
Cllr C Lloyd	SAB member [observer]
Mr K Gerard	Technical Group rep – Dial in
Ms N Mark	Scheme Advisory Board adviser
Mr D Murphy	Northern Ireland
Ms K Linge	SPPA
Mr C Hargrave	MHCLG
Ms T Khatun	MHCLG [observer]
Secretariat	
Mr J Houston	LGPC
Ms L Bennett	LGPC
Ms R Abbey	LGPC
Ms E English	LGPC

1. APOLOGIES

Apologies were received from Cllr A Waters and Cllr D Jones – LGA; Ms L Welsh – Scotland and Mr J Hughes – MHCLG. The Committee noted that Mr C Hargrave substituted for Mr J Hughes.

The Chair informed the Committee that she is up for re-election at the May elections so this could be her last meeting. She wished all those up for re-election best wishes.

2. MINUTES

The minutes of the previous meeting held on 16 January 2019 were agreed.

3. MATTERS ARISING

At the last meeting a request was made for the Secretariat to produce a document that explain the roles of the LGA, LGPC, SAB and other groups like POGs [Pension Officer Groups] and Technical Group etc, how they work together and what functions they perform in the operation of the LGPS. One intended purpose of the document was to help local pension board members understand the structure of the Scheme. A

draft document was circulated at the meeting. The Committee found the draft very helpful but asked that more detail be added ie narrative, how elected members are nominated, the role of the Section 101 committee and local pension boards etc.

The Committee also stated that it would be helpful to include an update from the Technical Group meeting as an agenda item at future LGPC meetings. Kevin Gerard [KG] agreed to this proposal and will provide an update from the Technical Group at the next meeting.

4. REGULATION UPDATE [E&W]

Lorraine Bennett [LB] presented the key points from paper B, in particular highlighting:

LGPS (Miscellaneous Amendment) Regulations 2018

- The above regulations came into force on 10 January 2019 with some provisions having an earlier effective date.
- Survivor benefits – Walker v Innospec judgment. LGPS administering authorities must re-visit calculations of pensions paid to some surviving civil partners and same sex spouses. Numbers are small, but some problems have arisen in identifying survivor pensions affected by the changes.
- MHCLG plan to issue statutory guidance setting out the actions to be taken concerning past transfer and trivial commutation payments that could be affected by the changes in survivor benefits. The Secretariat's view is that re-visiting such payments may contravene primary legislation; they have questioned whether the payments should be reviewed, and if so, whether statutory guidance is the correct means of delivering the change which has an impact for all public sector pension schemes.
- Con Hargrave [CH] stated that MHCLG, in particular Jeremy Hughes [JH], will be holding meetings early next week to go through different options. [KG] stated that the Technical Group at their last meeting were concerned about re-visiting past transfer and trivial commutation payments.
- [LB] stated that the national Communications Working Group had prepared and published template newsletter text to assist administering authorities in communicating the changes brought about by the LGPS (Miscellaneous Amendment) Regulations 2018 to Scheme members. The deadline for administering authorities to communicate the changes is 9 April 2019.

Exit credits

- LB advised that the Secretariat is aware that the payment of exit credits is causing issues for administering authorities if a side contractual agreement is in place. Some service providers are no longer looking to extend contracts at the end of their term so that they can receive an exit credit (which can exceed the contributions paid by the employer).
- MHCLG intend to consult on changes to the regulations that would introduce a retrospective change to allow administering authorities to take side agreements into account when calculating any exit credit.
- In December 2018 the Secretariat asked administering authorities for information about exit credits paid or due to be paid since their introduction in

May 2018. Responses were received from 55 out of 88 administering authorities in England and Wales who reported exit payments made or due to be made which totalled £83 million.

Fair Deal

- LB informed the Committee that MHCLG issued a 12 week consultation on Fair Deal on 10 January 2019 which closed on 4 April 2019. The consultation's aim was to strengthen the pension protections that apply when an employee of a LGPS employer is compulsorily transferred to the employment of a service provider. The proposals would introduce the concept of 'deemed' employer as an alternative to the admitted body route for the service provider. The local authority would remain the Scheme employer for pension purposes when a service is outsourced.
- LB stated that the LGPC and the national LGPS Technical Group had submitted their responses. Both were generally in favour of the proposed changes and the LGPC response confirmed the Secretariat's view that the deemed employer route should be the default position.
- CH informed the Committee that MHCLG had thus far received 70 – 75 responses.

LGPS factor review

- LB informed the Committee that MHCLG in conjunction with GAD are undertaking a short consultation on late retirement factors. The aim of the proposed methodology change is to remove the 'cliff edge' which affects some members when factors change. The consultation closes on 17 April.
- Additional pension factors were published 16 March for implementation on 1 April 2019. The new factors apply to both new and existing contracts. The LGPC has fed back to MHCLG the view of administering authorities that a longer lead-in time is required for this type of factor change.

Exit payment reform

- LB informed the Committee that HM Treasury plan to issue a further consultation imminently on restricting the exit payment amount that can be paid to an individual leaving public sector employment. The proposed exit payment cap is £95k.
- LB confirmed that the draft regulations consulted on in 2015 granted the full council of a local authority the power to relax the cap (subject to Treasury Directions) but that new information suggests that Treasury approval would be required to relax the cap and that this change had led to delays in issuing the new consultation.
- LB noted that mid-range earners such as nurses and social workers could be affected by the cap and therefore the LGPC is likely to suggest a 'pay floor' in their response to the consultation.
- David Murphy [DM] stated that there are no powers to bring in the exit payment cap regulations into NI at the minute, having previously been rejected by the Northern Ireland Assembly, but he would not be surprised if a future Minister revisited the issue.

- Sharon Taylor [ST] voiced her concern over the equal pay issues and the impact this policy will have on the same women who have seen an increase in the age at which they can access their State Pension.
- The Chair stated that good communication would be needed to advise members, administering authorities and employers about these changes.

Pension Dashboards

- LB informed the Committee that the consultation closed on 28 January. The LGPC issued their response which included concerns about cyber security and what data items will be included on the dashboard.
- The government response to the consultation confirms that participation will be mandatory with defined contribution schemes onboarding first and the majority of schemes participating within 3 to 4 years.

5. SAB REPORT E&W

Jeff Houston [JH] presented the key points for the Committee to note from paper C, in particular highlighting:

Cost management

- JH explained that the SAB was at the point of recommending Scheme changes to government as a result of the cost 'floor' being breached when the Court of Appeal's decision in the McCloud / Sargeant case was announced. The Court of Appeal held that protection for older public pension scheme members introduced in 2015 were discriminatory.
- The government has applied to appeal the McCloud case in the Supreme Court. A pause in the cost management process has been announced until the outcome and implications of the McCloud case are known.

Good governance project

- JH informed the Committee that the Separation project has been renamed Good Governance in the LGPS.
- JH stated that Hymans Robertson had been awarded the contract to look into how LGPS functions can be accommodated within local authority structures. Hymans will be engaging with stakeholders in the coming weeks to find examples of best practice and consider what structures, support and guidance could be made available to support those making decision on behalf of LGPS members and employers.

Responsible investment guidance

- JH stated that the SAB has published guidance on their website which will be updated as and when new issues arise.

Pooling guidance

- JH stated that the SAB has produced a technical response on MHCLG draft guidance which will be discussed at the SAB meeting taking place later in the day.

Local Pension Boards survey

- JH stated that some pension boards were performing better than others. It was agreed that the Secretariat should prepare a survey to build on the original one undertaken in 2017. A draft version has been prepared with a view to the survey being issued in May 2019.

Academies and third tier employer projects

- JH stated that both projects have been on hold due to the SAB resources being taken up by the cost management process. Both projects will now be fully operational.
- JH informed that the SAB had set up a working group to consider the 85 options presented by Aon and to reduce them to 6 for the SAB to consider.

6. REGULATIONS UPDATE SCOTLAND

The Committee noted the key points from paper D which was presented by Ms K Linge (KL).

- Draft Regulations (Scotland) Miscellaneous Amendments Regulations 2018 - the technical consultation closed on 11 March 2019 which looked at amendments to extend flexibility to take an uncrystallised lump sum from the member's AVC fund. Issues raised in responses to the consultation will be discussed with the Scottish Government Legal Directorate. It is expected that the regulations will come into force in July 2019 at the earliest.
- The Local Government Pension Scheme (Scotland) Pension Amendment (Increased Pension Entitlement) Regulations 2019 are due to come into force later in 2019.
- The cost cap process is also paused in Scotland.
- Actuarial guidance - GAD has provided revised non-club transfer factors in response to the change in the discount rate announced in the October 2018 Budget. Additional Pension factors were also published in March 2019 which took effect from 1 April 2019. Scottish administering authorities raised concerns about the quick turnaround time.
- Structural Review - the consultation responses from employers and employee bodies are available on the website. It is hoped that the report will be made available by the end of April.

7. REGULATIONS UPDATE NORTHERN IRELAND

The Committee noted the key points from paper E which was presented by David Murphy (DM) highlighting the key points:

- The Northern Ireland Assembly made its own version of the Public Service Pension Act (Northern Ireland) 2014.
- The Department for Communities issued a consultation on changes to scheme benefits in order to rectify the Cost cap floor breach on 17 December 2018. This cost cap process has now been paused.
- GAD completed its Section 13 review of NILGOSC's 2016 actuarial valuation which was published in March 2019.

- In the absence of local Ministers the Department for Communities took steps to have legislation made at Westminster to allow for the appointment of Board members to NILGOSC.
- The NILGOSC conference that took place on 3 April 2019 for all public service pension schemes was very well received with speakers from GAD, TPR, TLT Solicitors and Deloitte.

8. TRAINING AND CONFERENCE UPDATE

The Committee noted the key points from paper F which was presented by Elaine English (EE) highlighting:

- The LGPS Governance conference that took place on 17 /18 January 2019 in Bristol received very positive feedback with 95% of delegates stating it met their needs. More people attended the Governance conference in 2019 than in any previous year.
- EE stated that as holding the conference in January proved to be popular with delegates, the dates for next year's Governance conference have been confirmed as 23 / 24 January 2020 at the Principal Hotel in York. Again thanks go to our main sponsor Investec.
- EE also reported that the LGPC's bespoke LGPS training programme for elected members [Fundamentals] has been organised for this year and will run from October to December.
- EE reminded members of the LGPC to let her know if they would like to attend any of the events on a complimentary basis.
- **Post meeting update – Circular 313 has now been issued. Fundamentals events are now live for booking on the events pages of the LGA website.**

10. ANY OTHER BUSINESS

None

11. DATE OF NEXT MEETING

The Committee agree they would like to continue to co-ordinate meetings with the SAB meetings. The next meeting date will be confirmed.

Post meeting update – next meeting will be held on 8 July 2019.

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The LGPS community document

Key points to note

- The LGPC community document aims to explain the relationship between the different bodies that make up the Local Government Pension Scheme (LGPS) community.

Decisions

- The Committee is asked to agree the final version of the document.

Summary

1. At the LGPC meeting held on 16 January 2019 a request was made for the Secretariat to produce a document that explain the roles of the LGA, LGPC, SAB and other groups like POGs (Pension Officer Groups) and Technical Group etc. It was asked that the document set out how the different bodies work together and what functions they perform in the operation of the LGPS.
2. One intended purpose of the document is to help local pension board members understand the structure of the Scheme.
3. A first draft of the document was circulated at the 8 April 2019 meeting; the Committee asked that more detail be added ie narrative on how elected members are nominated, the role of the pension committees and local pension boards etc.
4. An updated version of the document is attached for review and approval by the Committee.
5. Once approved it will be circulated to all LGPS contacts.

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The LGPS Community

This document aims to explain the relationship between the different bodies that make up the Local Government Pension Scheme (LGPS) community. It does not seek to explain the governance structure of the LGPS, which is already well documented, or to be a comprehensive guide to the roles and responsibilities of the bodies that make up the community.

The Pensions Regulator's (TPR) [website](#) provides information on the governance structure for public sector pension schemes and the respective roles and responsibilities.

Readers should note that the LGPS in England and Wales, Scotland and Northern Ireland are three different pension schemes.

The diagram on the next page illustrates the formal relationship between the different bodies. In reality, many of the bodies work together informally on a collaborative basis and are in regular contact.

LGPS administering authorities

Each administering authority is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The administering authority is responsible for maintaining and investing its own fund for the LGPS.

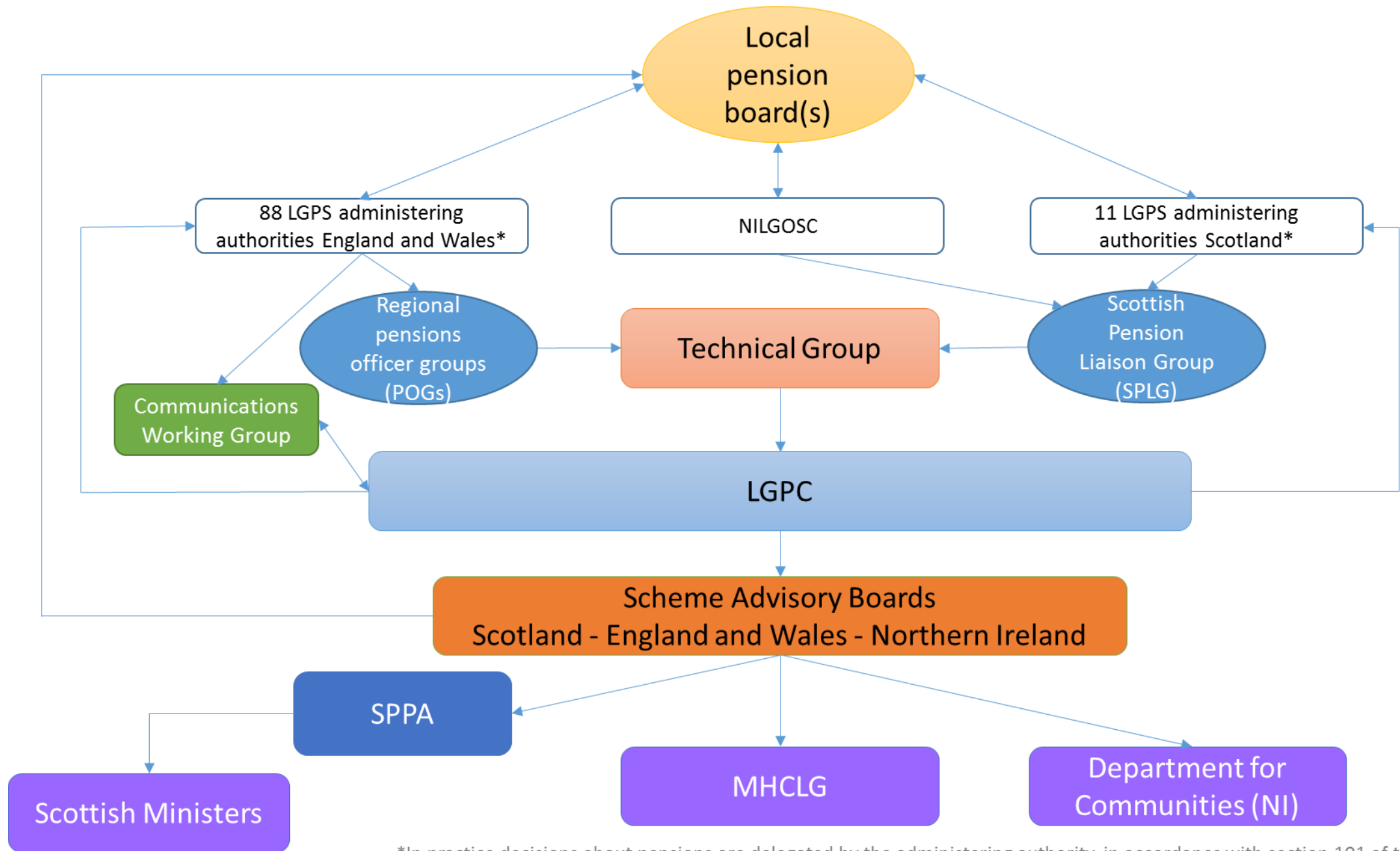
Where the administering authority is also the local authority (as is the case for the majority of administering authorities) it is not possible for certain decisions about pension allowances or the amount of pension to be paid to employees to be an executive decision. This means in practice that decisions about pensions are delegated in accordance with Section 101 of the 1972 Act to:

- pension committees or sub committees made up of the administering authorities' councillors (from all political groups). Some of the committees / sub committees will also have additional co-opted members such as employer and scheme member representatives, or
- administering authority officers.

Each administering authority must have in place a governance compliance statement setting out whether it delegates its functions, or part of its functions under the Regulations to a committee, a sub-committee or an officer of the authority.

Each administering authority will decide whether the day to day administration of the LGPS is performed in-house, by a third party or as part of a shared service agreement with another administering authority.

In Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) is responsible for managing and administering the LGPS in relation to members of the LGPS in Northern Ireland. It is also responsible for maintaining and investing the pension fund.



*In practice decisions about pensions are delegated by the administering authority, in accordance with section 101 of the Local Government Act 1972, to pension committees, sub-committees or officers

Pension officer groups (POGs)

POGs provide an opportunity for pension administrators (usually the pension manager and/or deputy manager) to meet on a regular basis to discuss current issues and share best practice. In Scotland the group is referred to as the Scottish Pensions Liaison Group (SPLG) and is also attended by representatives from NILGOSC.

In England and Wales there are eight regional POGs:

London	East Midlands
South East	Shrewsbury
Wales	Southern area
South West	North of England

Meetings usually take place quarterly.

Where an issue or query cannot be resolved within the POG itself, or a national view is required, it is referred to the Technical Group for consideration.

The LGPC Secretariat attends POGs to provide updates on the latest developments and provide technical support. Further information about POGs, including meeting dates and the contact details for POG chairs can be obtained by emailing the LGPC Secretariat – query.lgps@local.gov.uk.

Technical Group

The Technical Group is made up of nominees from the POGs and SPLG. Each POG is able to nominate up to two representatives for membership, whilst SPLG and NILGOSC are able to nominate one member each.

The group is also attended by representatives of the following organisations:

- LGPC
- Ministry of Housing, Communities and Local Government (MHCLG)
- Scottish Public Pensions Agency (SPPA¹)
- Department for Communities (Northern Ireland)

The POG and SPLG nominees are able to raise any issues / areas for discussion identified at the regional POGs.

The purpose of the Technical Group is set out in its [terms of reference](#) – a summary is provided below:

- to provide advice and guidance to POGs and administering authorities, in particular in relation to the interpretation of legislation
- to assist with the development of consistent standards and improve the quality of information available to LGPS administering authorities
- to liaise with the responsible authority² for each LGPS scheme
- to represent the views of administering authorities in relation to the direction of pension policy and the desirability of making changes to Scheme regulations.

¹ SPPA provides policy advice to Scottish Ministers on public sector pension issues and is responsible for developing the regulations for Scotland's LGPS – and for determining any appeals made by its members

² Defined in the Public Service Pensions Act 2013 as the person who may make scheme regulations

The group is facilitated by the LGPC Secretariat who publish the minutes on their [website](#) for LGPS administering authorities and employers.

Communications Working Group

The Communications Working Group (CWG) is a collaborative forum made up of representatives from 20 administering authorities in England and Wales. The group meets on a quarterly basis to develop items of communication for scheme members in the LGPS. The group was created and is run by the LGPC.

The CWG provides the opportunity for LGPS funds to share knowledge and experience in the field of communications and to assist the LGPC secretariat in the development and provision of centrally devised communications resources.

The CWG priorities include the identification of best practice within pension communications generally and the LGPS specifically, exploring the areas where centrally produced communications would save individual LGPS funds financial resources and staff time.

The documents produced by the LGPC in conjunction with the CWG for the LGPS can be found on LGPC's [website](#) for administering authorities and employers, along with the annual work plan and actions and agreements from each meeting.

Individuals can put themselves forward for membership of the group to the [LGPC secretariat](#) for consideration. To ensure effective debate and discussion can occur, the optimum number which the group aims to retain is approximately 20 members. Once at capacity the group will retain requests for membership from other interested parties and where members leave or are unable to attend meetings then consideration will be given by the Secretariat to incorporate these requests.

Local Government Pension Committee (LGPC)

The LGPC is a committee of councillors constituted by the:

- Local Government Association (LGA)
- Welsh Local Government Association (WLGA)
- Convention of Scottish Local Authorities (COSLA)

As such, it covers the LGPS administering authorities in England, Scotland and Wales. Councillors are nominated for membership of the LGPC by their respective political group at the LGA. Membership numbers mirror the political balance of the LGA. The chair is a committee member from the largest political group at the LGA and is nominated for the role by the Committee.

The Committee meets four times a year. Meetings are facilitated by the LGPC Secretariat and are also attended by representatives from the following organisations:

- SAB England and Wales - the nominated practitioner representative
- the Technical Group
- Ministry of Housing, Communities and Local Government (MHCLG)
- Scottish Public Pensions Agency (SPPA)
- Department for Communities (Northern Ireland)

In addition any elected member of the Scheme Advisory Board (England and Wales) is able to attend LGPC meetings as an observer. Meeting minutes are published on the LGPC secretariat's [website](#) for LGPS administering authorities and employers.

The LGPC represents local authority interests in dealing with government and others on local government pension issues. It also provides an advice and information network for LGPS administering authorities. The LGA provides the secretariat service for the LGPC. The service includes:

- a library of [technical guides](#) on the LGPS and related compensation matters
- a library of [guides and leaflets](#) for employees and councillors of the LGPS for administering authorities and employers to download and personalise for their own use
- a [monthly bulletin](#) highlighting issues affecting the LGPS
- an online library of LGPS [statutory guidance](#) and other related legislation
- the upkeep of [timeline regulations](#) for the LGPS
- a national [website](#) for members of the LGPS in England and Wales
- attendance at regional pensioner officer group meetings to provide technical support
- representing the interests of LGPS administering authorities at a national level with government and other bodies, such as national employer groups, the Pensions Regulator and the Pensions Ombudsman.

The LGPC secretariat also provides a programme of pensions training for LGPS pension practitioners, LGPS employers, pension committee and local pension board members.

Local pension boards

The LGPS Regulations and the Public Service Pensions Act 2013 require that each 'scheme manager' establishes a local pension board. This requirement has been in place since 1 April 2015. For England, Wales and Scotland this means that each administering authority must establish a separate local pension board.

The local pension board has responsibility for assisting the scheme manager in the effective and efficient governance and administration of the Scheme, as well as ensuring compliance with:

- the Scheme regulations
- any other legislation relating to the governance and administration of the Scheme and any connected scheme
- any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme.

A local pension board must be made of up of equal numbers of employer and member representatives (with a minimum of four representatives) and may also include other members. Where an independent chair is appointed he/she will be classed as an 'other' member.

The method of appointing representatives and other members to a local pension

board is determined by each administering authority. Information about how a particular administering authority's appointment process works can be obtained by contacting the relevant administering authority directly or by accessing their website.

Scheme Advisory Board (SAB)

Each LGPS scheme is required by law to establish a SAB – the role of which is to advise the authority responsible for making the regulations of the desirability of changes to the Scheme.

SABs can also provide advice to administering authorities and local pension boards in relation to the effective and efficient administration and management of the Scheme.

Board membership is designed to include a broad spectrum of scheme stakeholders. Members are appointed either by appropriate representative bodies or by nomination and election. More information can be found on each of the Boards' websites:

England and Wales: <http://www.lgpsboard.org/>

Scotland: <http://lgpsab.scot/>

Northern Ireland: <https://www.nilgosc.org.uk/>

The responsible authority

The responsible authority is responsible for making the regulations that govern the scheme rules. For the LGPS schemes they are:

England and Wales: the Secretary of State for Housing, Communities and Local Government (MHCLG)

Scotland: the Scottish Ministers³

Northern Ireland: the Department for Communities

³ SPPA provides policy advice to Scottish Ministers on public sector pension issues and is responsible for developing the regulations for Scotland's LGPS – and for determining any appeals made by its members

Local Government Pension Scheme: Changes to the Local Valuation Cycle and the Management of Employer Risk

Key points to note

- MHCLG consultation published in May
- Response required by 31st July
- Draft response set out below
- Final response will be based on the Committee's views as received today and agreed by the Chair

Decisions

- The Committee is asked to discuss and agree the draft response

Background

1. In May 2019 MHCLG published a policy consultation covering a number of areas within the LGPS relating to valuations and employer risk. Responses are due back by 31 July 2019
2. This paper includes outline proposals for an LGPC response to the consultation which, if agreed, will be formulated into a formal response subject to the final agreement of the Chair.

Changes to the valuation cycle

3. The consultation proposes aligning the triennial LGPS fund valuations, undertaken by fund actuaries, with the quadrennial Scheme valuation undertaken by GAD from 2024.
4. In order to align the timetables the consultation proposes either a 5 year valuation for 2019 or a 3 plus 2 transition timetable with another valuation due in 2022.

Outline response

5. The LGPC can see the logic of aligning the valuation timetable but is concerned at the additional work required and the impact on employer budget cycles
6. The LGPC would support a 3 plus 2 transition as 5 years would be too long a valuation period in normal circumstances and especially so given the uncertainties over Cost cap and McCloud.

New powers to revisit funding between valuations

7. In order to mitigate the risk of longer valuation periods the consultation proposes the re-introduction of interim valuations and widen the ability to review employer contributions between valuations.
8. Both of the above would be subject to guidance issued by the Local Government Pension Scheme Advisory Board (SAB) to govern the circumstances in which they can be used.

Outline response

9. The LGPC support the principle of greater flexibility provided by interim valuations and contribution reviews
10. SAB guidance must ensure that the reasoning for such actions are sound and the circumstances clear to all parties.

Flexibility on exit payments and deferred employers

11. The consultation proposes LGPS administering authorities should have the ability to spread employer exit payments over a reasonable period of time. This would regularise existing practice by introducing specific regulatory powers.
12. The consultation also proposes that the concept of Deferred Debt Arrangements recently introduced by DWP into private sector pension schemes be incorporated into the LGPS via Deferred Employer status.
13. Deferred employers being those with no active members who have satisfied the LGPS administering authority that it has sufficient covenant in place not to place the fund under undue risk.
14. They would remain as deferred employer in the LGPS and be required to pay ongoing deficit contributions until such time as they resume active membership or formally leave the scheme without a deficit.

Outline response

15. The LGPC supports the spreading of exit payments provide the administering authority is satisfied that it provides the best method of reducing risk to other employers. The LGPC also believes that such arrangements should be subject to transparent reporting in the annual report and accounts.
16. The SAB guidance covering deferred employer status must ensure that other scheme employers are protected from the risk of such employers defaulting and that all scheme stakeholders are fully aware of the extent and nature of such arrangements.

Exit Credits

17. In April 2018 regulations were amended to provide for the payment of exit credits where employers left the scheme in surplus (the opposite of existing exit payments).
18. Since that time it has emerged that a number of contracting authorities have 'side agreements' in place which effectively remove the risk of deficit on exit from service providers who are admitted employers in the LGPS for the period of the contract.

19. These proposals would allow fund actuaries to take such side agreements into account when calculating the amount of any exit credit.

Outline response

20. The LGPC supports the changes to allow fund actuaries to take side agreements into account for exit credits.

Employers required to offer membership of the LGPS

21. The consultation proposes that further and higher education establishments be changed from scheduled to designation bodies under the LGPS regulations
22. In effect they would change from a situation where they must offer LGPS to new employees to one where they may offer LGPS
23. The consultation proposes no change for existing LGPS members who would retain their right to be in the scheme.

Outline response

24. The LGPC is concerned about the potential impact on future cash flows and scheme membership profiles which could result from this proposal and impact on remaining employers. The committee would wish to see detailed impact analysis before committing to a view on this proposal.
25. It is also concerned that this proposal could lead to similar moves in the Teachers' Pension Scheme which could result in increased employer contributions for local authorities.
26. LGPC is aware of the SAB's Tier 3 project which was commissioned to investigate, report and make proposals on issues such as the status of higher and further education establishments and suggests it may be advisable to wait the outcome of that project before progressing this proposal.

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LGPS England and Wales - regulation update

Key points to note

- The LGA response to the consultation on 'Restricting exit payments in the public sector'
- Fair Deal update
- DWP respond to pensions dashboards consultation
- LGPS factor review update
- Procurement of a LGPS knowledge system

Decisions

- The Committee is asked to note the contents of the report.

Summary

Restricting exit payments in the public sector consultation

The government first announced plans to cap exit payments in the public sector in 2015. On 10 April 2019 HM Treasury (HMT) launched a 12 week [consultation](#) on draft regulations, guidance and Directions to implement the cap.

The LGA has [responded](#) to the consultation ahead of the 3 July deadline. The response has been made available to employers and LGPS administering authorities to assist with their individual responses.

The response to the consultation is divided into two sections, the first outlines the practical difficulties facing employers by the measures set out in the consultation documents and the second lists the technical issues the Regulations, as drafted, instigate.

The key issues raised are listed in the executive summary to the response and are also set out below:

1. The scope of the cap as set out in this consultation could cover local government workers who have decades of service and earn less than £23,500 a year.
2. The absence of any review of the cap limit or any indexation of the £95,000 figure means that over time, more people with salaries below the UK average will be affected.
3. When originally proposed, the concept of a salary floor was suggested but there is no mention of that in this consultation. The LGA would support amendments to these Regulations to introduce both salary floor and indexation revisions.
4. No implementation period is set out in this consultation. Due to the volume of consequential Regulation changes required and the substantial

changes needed to administrative systems we believe a minimum of nine months from the date the Regulations are passed is required for the necessary reforms to the Local Government Pension Scheme to be introduced and the actuaries, payroll providers and others to respond accordingly.

5. The LGA is deeply concerned that the discretionary exemptions process set out in this consultation will prevent democratically elected councillors taking the necessary decisions to reform and manage the local government workforce. The overly bureaucratic process outlined which potentially requires three central government post holders (two civil servants and one Minister) to ratify a full council decision will frustrate employer engagement with employees and inhibit the responsiveness of local authorities to changing situations.
6. We support the mandatory exemption provision for those with whistleblowing and discrimination cases however, the omission of health and safety reporting related cases seems inappropriate and inconsistent, bearing in mind tribunal awards for such cases are also unlimited. Therefore, we would support the extension of the mandatory exemption to cover those cases.
7. More broadly, the discretionary exemption process for other tribunal cases is problematic and we have a number of concerns that the process itself will prejudice an employer's position. In addition, we envisage increased costs resulting from tribunal cases as individuals will be reluctant to accept a settlement when the cap means they could achieve a higher award in tribunal.
8. The absence of a robust Equalities Impact Assessment is a cause for concern and is one of several areas where the LGA is concerned that these Regulations increase legal risks facing councils.
9. As drafted, cash exit payments in local government will potentially increase as a result of these Regulations resulting in increased national insurance costs to councils when the National Insurance (Termination Awards and Sporting Testimonials) Bill comes into force.
10. Currently exit payments in local government are predominantly related to unreduced pension access for those above minimum benefit age and, particularly when compared with the wider public sector, the severance cash payments are low: generally 1.5 weeks per year reflecting the statutory system of accrual and actual weekly pay. As these Regulations will inhibit pension access for some individuals earning considerably below UK average earnings, there will be pressure from trade unions to improve the severance framework in response.
11. Substantial clarification on the impact of the cap on the Local Government Pension Scheme is needed in order to make these Regulations workable. In particular there is no clarity on the application of the cap in a way which provides a 'fair choice' for the member between a reduced pension and the cash alternative referred to in the draft Regulations. Also, there will be disputes due to the differing methods around the calculation of strain

- payments across the country and resultant inconsistencies in who is capped and to what extent.
12. Excluding outsourced employees from these Regulations, as well as other areas of local government related employment creates a two tier workforce that will be exacerbated by the inclusion of an exemption for TUPE cases but not 'TUPE-like' cases resulting, for example, from government mandated reorganisations. There is significant confusion around coverage in these Regulations which is made worse by the prospect of an iterative process gradually extending the range of organisations covered.

Fair deal update

At the last meeting the Committee were informed that the [LGPC's response](#) to MHCLG's consultation on '[Fair Deal – strengthening pension protection](#)' has been submitted. The consultation closed on 4 April 2019 and MHCLG are currently reviewing the responses.

To recap, the consultation contains proposals to strengthen the pension protections that apply when an employee of a LGPS employer is compulsorily transferred to the employment of a service provider. The proposed amendments to the LGPS Regulations 2013 would, in most cases, give transferred staff a continued right to membership of the LGPS and introduces the notion of a 'deemed' employer. These changes are intended to bring the LGPS in line with the government's October 2013 [Fair Deal guidance](#) that applies in relation to transfers from central government.

The draft regulations state that 'deemed' employers must have regard to advice issued by SAB in regard to the provision of pension protection to a protected transferee, including the sharing of risk.

We are working closely with MHCLG on this guidance to ensure it provides the necessary level of detail to enable the 'deemed' employer route to work effectively and to co-ordinate timings in relation to the regulations themselves and the DfE guidance for academies.

DWP respond to pensions dashboards consultation

As reported previously, the DWP consultation on the introduction of pension dashboards closed on 28 January 2019. The Government published its [response](#) to the consultation on 4 April 2019. Key details of the Government's plans include:

- legislation to compel pension providers to make consumers' data available on the dashboard
- staged onboarding of schemes with the majority of schemes participating within 3 to 4 years
- the inclusion of state pension data
- a commitment to multiple dashboards, with a non-commercial dashboard being overseen by the Money and Pensions Service (previously the Single Financial Guidance Body).

The Money and Pensions Service (MAPS) will take a leading role in delivery. MAPS will lead the delivery of the initial phase of the pensions dashboards and will bring together a delivery group made up of stakeholders from across the industry,

consumer groups, regulators and government. The delivery group will be accountable to the MAPS board, and MAPS are in turn accountable to the Department for Work and Pensions (DWP).

LGPS factor review

MHCLG in conjunction with GAD have recently undertaken a review of the actuarial guidance in relation to the LGPS. The review takes into account the change to the SCAPE discount rate.

As part of the review, on 28 March MHCLG issued a short, [technical consultation](#) on changes to the late retirement actuarial guidance. The consultation closed on 17 April 2019. Although MHCLG do not normally consult on the content of actuarial guidance notes, they did so in this instance because they are proposing a significant change to the methodology; the change is intended to remove the 'cliff edge' that affected some members following the last factor change in January 2017.

MHCLG have confirmed that a number of the responses to the consultation have raised concerns about the complexity of methodology and the 1 May 2019 implementation date. We understand that GAD are currently working on revised guidance which includes a simplified methodology and an implementation date of 1 September 2019.

Procurement of a LGPS knowledge system

The national Technical Group have requested that the LGA procure a LGPS knowledge system on behalf of the administering authorities in England and Wales and Scotland.

The knowledge system will hold historical and current information about the LGPS and will assist administration authorities when dealing with appeal cases that relate to benefits paid under earlier regulations. It could also be used as a training tool for staff and will help to alleviate the 'knowledge drain' that has taken place in many administering authorities over the last few years, as experienced staff members have left or retired.

In order to take this forward the LGA plan to ask each administering authority confirm that they are willing to sign a legal agreement with LGA in respect of the LGA undertaking the procurement of an LGPS knowledge system. The procurement will be under the relevant provisions of the Public Contract Regulations 2015.

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Scheme Advisory Board – England and Wales

Key points to note

- Government denied leave to appeal in the McCloud case
- Formal consultation on pooling guidance expected
- Good governance project update
- Simplification project underway
- Local pension board survey imminent
- Pensions tax issues under consideration by government

Decisions

- The Committee is asked to note the contents of the report

3. Summary

McCloud judgment – leave to appeal denied

On 27 June 2019, the Supreme Court denied the Government's request for an appeal in the McCloud and Sargeant case.

The case concerns the transitional protections provided to older members of the Judges and Firefighter pension schemes when the schemes were reformed in 2015, as part of the public sector pension scheme changes. On 20 December 2018 the Court of Appeal found that these protections were unlawful on the grounds of age discrimination and could not be justified.

The Supreme Court ruling of 27 June 2019 means that the Court of Appeal's decision will be upheld and the case will be returned to an employment tribunal for a detailed decision.

The [cost management page](#) of the SAB [website](#) contains background information to the above, including a [Q&A](#) which has been updated to take into account the Supreme Court ruling.

Further news will follow once we can confirm the next steps in the process.

Formal consultation on pooling guidance expected

In January 2019, MHCLG issued [draft statutory guidance](#) on LGPS asset pooling as part of an informal consultation (with only interested parties only invited to respond). The consultation closed on 28 March 2019.

In May 2019, at the PLSA Local Authority Conference, Rishi Sunak the Minister for local government pensions announced that a formal consultation on pooling guidance would be published in the forthcoming months.

Good governance project update

As previously reported, Hymans Robertson have been awarded the contract to look into how LGPS functions can be accommodated within the democratically accountable local authority framework. They will consider best practice, along with any conflicts of interest that have arisen and how they have been successfully dealt with.

They have recently undertaken a [national governance survey](#) with the aim of capturing as many views as possible from those working within the LGPS. The survey closed 31 May 2019 – the findings will be presented to the SAB on the meeting of the afternoon of 8 July 2019.

Simplification project

MHCLG have identified a need to make the Scheme regulations more adaptable, flexible and easy to administer, whilst maintaining a degree of consistency of approach across administering authorities. This project is called the 'simplification project'.

The simplification project is supported by a working group made up of representatives from trade unions, actuarial services, MHCLG, SAB, LGA and where necessary scheme employers, payroll software providers, administering authorities and software providers.

The [terms of reference](#) were agreed at the first meeting held on 8 May 2019. Also at that meeting the group considered a couple of administrative areas that may be improved / simplified. Should these considerations proceed further, a wider consultation will occur. These were:

- (a) application of assumed pensionable pay, and
- (b) employee and employer contributions during the first 30 days of an authorised absence)

Local Pension Boards survey

Following concerns raised at the Investment Committee about the effectiveness of some local pension boards, the Board agreed that the Secretariat should prepare a draft survey to build on the previous survey undertaken in 2017.

Initially, the Investment committee was given delegated authority by SAB to prepare and publish the survey. However, since the local elections in May 2019, the post of Chair of the Investment Committee has been vacant meaning that the Board will be invited to give final approval of the survey at the SAB meeting on the afternoon of 8 July 2019.

Pensions Tax update

As reported previously, concerns are being raised across the public sector about the effect the Annual Allowance and Lifetime Allowance are having on workforce behavior.

Identified behaviors in local government include:

- opting out in significant numbers,
- the hesitation and occasional non-acceptance of promotions and job offers
- a growing reluctance to take temporary acting up opportunities

- leaving the sector.

The LGA is a member of a public sector working group on pension tax and have helped to raise these concerns with HM Treasury. We understand the issue is now being considered across government and that officials from the working group will soon be invited to a meeting with HM Treasury to discuss options to mitigate the effect on workforce behavior. The options will not include a change to the tax system.

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Regulation Update Scotland 2019

1. Draft Regulations - The Local Government Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations 2019

1.1 The Local Government Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations 2019 came into force on the 28 June 2019. These amendments extend the flexibility to take an 'Uncrystallised Funds Pension Lump Sum' (UFPLS) from a member's AVC provider to members of previous schemes.

1.2 They also provide that an active member, who is absent from work with permission from the member's Scheme employer (otherwise than by reason of illness or injury) for a continuous period of 30 days and is receiving reduced or no pay, must pay contributions on the pensionable pay the member would have received during that period but for the absence.

1.3 A deferred member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the deferred pension member is still an employee in local government service with another employer.

1.4 For the purposes of calculating assumed pensionable pay, in accordance with regulation 21(4) (assumed pensionable pay), no account is to be taken of any reduction in the pensionable pay the member incurred if the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body.

1.5 These regulations also correct a number of referencing errors and ensure that the provisions in the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 continue to have effect in the 2018 scheme.

1.6 The consultation report can be found on the SPPA website <https://pensions.gov.scot/local-government/scheme-governance-and-legislation/consultations>

2. Regulations - The Local Government Pension Scheme (Scotland) Pensions Amendment (Increased Pension Entitlement) Regulations 2019

2.1 In 2008/2009 GMP-related overpayments across the public service schemes were identified and Scottish Ministers chose to allow the pension in payment to remain unadjusted for affected pensioners in the Police, Firefighter and Local Government Pension schemes.

2.2 These regulations provide for a new scheme award known as an Increased Pension Entitlement (IPE) which reflects the GMP-related overpayment. The regulations are currently expected to be laid in October 2019.

3. 2017 Employer Cost Cap valuation and litigation update

3.1 HM Treasury's public service pension employer cost cap mechanism remains paused due to the ongoing uncertainty surrounding the McCloud case, where the Court of Appeal found that the manner in which the transitional provisions have been implemented has given rise to unlawful direct age discrimination.

3.2 The UK Government has sought leave to appeal the Court of Appeal's judgment, and a decision on whether the case will proceed to the Supreme Court is anticipated in July 2019.

4. Civil partnership to mixed sex couples

4.1 The Scottish Government plans to introduce a Bill into the Scottish Parliament in autumn this year to extend civil partnership to mixed sex couples. This Bill will be subject to Parliamentary scrutiny.

4.2 If Parliament enacts the Bill, it is expected that secondary legislation will then be needed which will require the agreement of the UK Parliament so the final introduction date will be based on that legislative timetable.

4.3 Consideration is being given to how the extension of civil partnerships to mixed sex couples should be treated with regard to the benefits paid by the schemes. More information is available through the following link-
<https://www.gov.scot/news/civil-partnerships-to-be-extended-to-all/>

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Regulation Update Northern Ireland 2019

1. Background

- 1.1 Public Service pension regulations are a devolved matter for the Northern Ireland Assembly. Regulations for the Local Government Pension Scheme (LGPS) in Northern Ireland are made by the Department for Communities.
- 1.2 The Northern Ireland Assembly made its own version of the [Public Service Pensions Act \(Northern Ireland\) 2014](#).

2. LGPS Regulations

- 2.1 No new LGPS Regulations have been made in the period since the last meeting.

3. Governance

- 3.1 No further meetings of the NI LGPS Scheme Advisory Board have taken place.

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Technical Group Update June 2019

1. Background

- 1.1. The National Technical Group is made up of representatives from LGPS administering authorities in England, Wales, Scotland and Northern Ireland. Its purpose is to represent the views of LGPS administering authorities in relation to the direction of pension and other areas of government policy.

2. Update from June 2019 Technical group meeting

- 2.1. Due to the ever increasing complexity of the scheme and requirement for administering authorities to retain, understand and apply regulations which were in force many years ago. There appears nationally a requirement to consolidate the regulations into an on-line guide which covers in detail all aspects of the scheme including overriding legislation and case law. The Technical Group and subsequently regional Pension Officer Groups have had a demonstration of a product which would provide a 'one-stop shop' for administering authorities and assist in improving skills, knowledge and understanding and have requested that LGA pursue this on their behalf.
- 2.2. A response for the Exit Cap consultation has been submitted and a working group has been created to coordinate a response in respect of the Local Valuation Cycle and the Management of Employer Risk consultation.
- 2.3. Regulation 18(7) of the LGPS Regulations 2013 requires an administering authority to deduct a Contributions Equivalent Premium CEP from a refund of contributions prior to payment. However, HMRC will no longer accept the payment of CEPs (following the extension of the phase 7 re-run financial reconciliation exercise to 4 June 2019). It was initially envisaged that the extension of the phase 7 re-run would resolve all un-notified CEPs to HMRC. These could then be paid by the Administering Authority once they had received their final reconciliation schedule. However, Technical Group has identified a potential scenario that can occur as a direct result of the Scheme's 3 month vesting period from 2004 to 2014, that can occur in the future and will cause the Scheme a problem as a CEP should be paid but cannot be paid in certain circumstances. Essentially, the LGPS regulations appear to be 'out of line' with HMRC processes in a 'post contracted-out' environment.
- 2.4. The NI Database is a facility which administering authorities use to ensure that 'double' payment of death grants do not occur if a scheme member was a part of more than one Pension Fund. In order to work effectively each fund

is required to regularly upload scheme member data. The Technical Group requested that in addition to signing revised Information Sharing Agreements each fund is required to update their data every 60 days as opposed to every 90 days.

- 2.5. Technical Group were informed that issues previously raised at the March 2019 meeting requesting regulatory amendments in respect of forfeiture, aggregation and the automatic refund of contributions after 5 years were being discussed at July SAB.
- 2.6. It was noted that the Simplification Project had the objective of making the regulations more adaptable, flexible and easy to administer whilst maintaining consistency of approach. Technical Group welcomed this initiative and looked forward to a consultation on any proposed amendments.
- 2.7. GMP Reconciliation exercise continues at each administering authority post December 2018. Whilst HMRC commenced replying to outstanding queries in March 2019. The majority of funds continued to have a number of 'Stalemate Cases' which remain unresolved, HMRC have confirmed their position and they will address these cases on an individual basis when the scheme member reaches state pension age.

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