

# Local Government Pensions Committee

## Virtual meeting Agenda

11am – Monday 7 September 2020

Item		Timings
1	Introduction from the Chair	11:00
2	Apologies for absence and declarations of interest	11:05
3	Minutes of meeting held on 3 February 2020 - <b>Paper A</b>	11:10
4	Matters arising	11:15
5	LGPC budget – <b>Paper B</b>	11:20
6	SAB update for England and Wales – <b>Paper C</b>	11:30
7	Regulations update for England and Wales – <b>Paper D</b>	11:45
8	Regulations update for Scotland - <b>Paper E</b>	11:55
9	Regulations update for Northern Ireland - <b>Paper F</b>	12:05
10	Update from Technical Group – <b>verbal update</b>	12:15
11	Training and annual conference update – <b>Paper G</b>	12:25
12	Any other business	12:30
13	Dates of future meetings: TBC	

## LGPC minutes

Meeting held on 3 February 2020

### PRESENT

Cllr Phil Murphy	Substitute Chair, LGA
Cllr Goronwy Edwards	LGA
Cllr Alan Waters	LGA
Cllr Richard Wenham	LGA
Cllr Clive Lloyd	SAB rep
Cllr Sharon Taylor	LGA – Dial in
Cllr Simon Blackburn	LGA – Dial in
Mr Jeremy Hughes	MHCLG
Mr David Murphy	NILGOSC
Ms Kimberly Linge	SPPA

### Secretariat

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Ms Elaine English	LGPC
Mr Jeff Houston	LGPC

### 1. INTRODUCTION FROM NEW CHAIR

The new Chair, Cllr Byron Rhodes [BR] was unfortunately unable to attend the meeting due to ill health. Cllr Phil Murphy [PM] agreed to Chair the meeting.

PM introduced himself to the meeting and introductions were made. No declarations of interest were reported.

### 2. APOLOGIES

Apologies were received from Cllr Byron Rhodes – LGA, Cllr John Fuller – LGA, Mr Kevin Gerard – Technical Group rep, Cllr Paynter – LGA and Linda Welsh – Scottish Officers Group.

### 3. MINUTES

The minutes of the previous meeting held on 6 November 2019 were agreed subject to the change on page 2, paragraph 5 whereby “same” sex civil partner should have read “opposite” sex civil partner.

### 4. MATTERS ARISING

Lorraine Bennett [LB] informed the Committee that Exit credits and Responsible Investment Guidance would be covered in later agenda items.

The Pension Ombudsman (TPO), page 3 - Since the last meeting the LGPC secretariat have reviewed their publications covering transfers and have updated them where necessary. They have included an article in the LGPC Bulletin about the implications for transfers from the LGPS to another occupational scheme.

Member Videos, page 3. The videos have now been launched. The LGPC Secretariat has asked regional groups whether they support the production of a video about what members should consider if they are thinking about transferring their pension. The response from the regional groups is a unanimous yes.

**Action:** To report progress at the next meeting.

## **5. REGULATION UPDATE [E&W]**

LB presented the key points from paper B.

### **Exit Credits**

MHCLG is expected to respond to the consultation on the Local valuation cycle and the management of employer risk in February 2020. The response is expected to include a change to the regulations to allow administering authorities to consider the amount of risk borne by an employer when calculating an exit credit. Since exit credits were introduced in May 2018, it had come to light that a number of contracting authorities have side agreements which remove the risk of deficits on exit from service providers. Cllr Richard Wenham [RW] asked whether the change in regulations would be retrospective. Jeff Houston [JH] replied that the majority who responded to the consultation were in favour of retrospection. There are court cases which are currently on hold and the MHCLG response to the consultation is likely to influence the courts' decisions.

### **Pensions Bill**

It was confirmed in the Queen's Speech on 19 December 2019 that the Pensions Schemes Bill will be reintroduced. The Bill will strengthen TPR's powers and create a legislative framework to support pensions dashboards. LB referred the Committee to the Parliament website to view the draft legislation and Explanatory Notes.

### **The LGPS (Amendment) Regulations 2019**

The LGPS regulations have been updated to introduce survivor pensions for opposite sex civil partners. The LGPC Secretariat is in the process of updating online resources and guides to reflect the change.

Jeremy Hughes [JHu] reported that a legal challenge has been brought against Warwickshire CC. The surviving cohabiting partner of a member who left the scheme before 1 April 2008 is challenging the decision not to pay them a survivor's pension.

David Murphy [DM] asked whether full equalisation of survivor benefits was being considered. JHu confirmed that the estimated cost of this across all public sector schemes is £5/6 billion. The cost to the LGPS in England and Wales is approximately £2.5 billion [post meeting update: JHu has since confirmed that the actual estimated cost across the public sector is £3.5bn; estimated cost to the LGPS is £1.1bn]. RW asked for a clear explanation of these costs. JH stated that most of the cost would be incurred by retrospectively increasing survivor benefits that have already been paid.

### **Exit Payment reforms**

Exit payment reforms which were first announced in 2015 and were delayed are now expected to progress.

### **Exit cap**

The exit cap will limit the employer payments related to an employee's exit to £95k, which will include the strain cost of paying an LGPS pension early. A second consultation on this proposal was launched in April 2019. The LGA responded to this consultation and their response can be viewed on the [lgpsregs.org](http://lgpsregs.org) website.

### **Exit Payment recovery**

Exit payment recovery was included in the Conservative manifesto in 2019. Exit payment recovery would require a person who leaves a public sector job with an exit payment to repay some or all of that payment if they return to public sector employment within a year. Exit payment recovery would only apply to individuals who earn more than £80,000 a year. We expect that this policy will introduce a duty on employers not to employ an individual affected by exit payment recovery until a repayment plan is in place.

JH noted that this policy has UK-wide implications, but that it is a devolved issue. Kimberley Linge [KL] stated that she does not expect this policy to be implemented in Scotland, but that Scottish employers will be encouraged to have regard to these rules once they are introduced in England and Wales. David Murphy [DM] stated that Northern Ireland have passed a consent motion agreeing for the UK government to pass legislation for Northern Ireland on this usually devolved issue. Cllr Clive Lloyd [CL] asked how many people were likely to be affected by exit payment recovery. JH expects the number to be in the tens, rather than hundreds. Cllr Sharon Taylor [ST] raised concern over the 12-month deadline and noted that people may delay re-employment until the thirteenth month to avoid repayment. It was noted that the 12-month period was a HM Treasury policy decision. The Chair asked if there would be an opportunity to lobby for a change in the period. JH confirmed that there will be a consultation on the draft regulations which will allow the Committee to voice its opinion.

### **Fair deal**

The Government's response to the Fair deal consultation which closed on 4 April 2019 has not been published.

## **6. SAB UPDATE [E&W]**

JH presented the key points from paper C.

## Good Governance

Hymans Robertson were awarded the contract to look into how LGPS functions are delivered within the local authority framework. Hymans presented their findings to the SAB in July and November 2019.

In summary, the findings were:

- Publication of a new Governance Compliance statement to include an LGPS responsible person
- Outcome measures should use existing indicators where possible
- Updated guidance should be published or approved by MHCLG
- Guidance should set out minimum requirements of knowledge and understanding for responsible person and decision makers
- Governance reviews to be biennial and on a consistent basis
- Introduction of a LGPS 'Peer Challenge' process by invitation.

The next phase of the project will involve identifying the outcome measures to be used. A proposed timetable will be presented to the SAB at the afternoon meeting.

## Responsible Investment guidance

The SAB will be publishing two sets of guidance:

- i) Definitions and duties
- ii) Options for examples of best practice.

The first set of guidance will collate the information that is already available including QCs' opinions and case law. There are differing views about how fiduciary duty applies in the LGPS. These views will be taken into account in deciding how to provide clarity. The decision in the ongoing legal challenge concerning investment decisions that are not in line with UK foreign policy is likely to have an impact on the guidance.

A draft version of the guidance was agreed at the November SAB meeting. A public consultation on the draft guidance concluded at the end of January 2020.

ST pointed out that members are increasingly concerned about investment decisions that are contradictory to the climate emergency declaration that many councils have made.

The Committee expressed concerns about the use of acronyms and the possibility of being misled by investment managers. A standard method of measuring a company's carbon footprint will help to inform investment decision. There is currently no standardisation.

## **McCloud judgment**

The Supreme Court denied the Government's request for an appeal in the McCloud case. The SAB will be asked to agree to form two working groups to assist with the formulation and implementation of regulatory changes:

- i) A policy group to assist MHCLG in considering any areas of policy
- ii) An implementation group which will include practitioners, member reps, actuaries, software providers and employers to consider implementation and communicating the scheme changes to members and employers.

It is expected that a consultation on a proposed remedy for the LGPS will be launched in the Spring. Correcting past calculations will present a significant challenge for administrators. Advice from actuaries indicates that as many as half the members covered by the remedy may have already left the scheme. It is likely that their deferred or pension benefits will have to be re-calculated. Survivor benefits and past transfer and trivial commutation payments may also have to be reviewed.

The remedy may be more complex in the other public sector schemes. We expect the other schemes to undertake an options exercise, allowing employees to choose between membership of the career average or final salary schemes. There is a risk of further legal challenge from a member who ends up worse off as a result of the option they take.

JH expressed concern about the period between the date a decision on the remedy is made and the date the relevant changes are made to the regulations. How much primary legislation must be changed will determine the length of this period of uncertainty. The SAB is seeking legal advice about what protection an employer might have if a member makes a claim against the scheme and employer.

RW and ST asked about the cost of the exercise, both in terms of paying increased benefits and the administrative resource needed to review and amend past benefit calculations. A major influence on cost will be the length of the remedy period, which is not yet known.

## **Simplification and Guidance**

JH stated that work will recommence shortly.

## **Employer support**

The academies and Tier 3 projects will be ending in the near future. The outcome of these projects will be to use Pensions Administration Strategies to improve data quality.

## **Further discussions**

RW asked whether there was any indication that the cost cap process would restart. The FBU has launched a legal challenge to restart the cost cap process to improve member benefits or reduce member contributions. The McCloud will affect the cost of providing the scheme. The view of the Committee was that no scheme development in response to the cost cap should be undertaken until the full cost of the McCloud remedy has been assessed.

DM noted that certain investments are linked to RPI. The Government is currently consulting on replacing RPI with CPIH, which would yield lower returns. JH confirmed that the SAB has asked funds to let them know their level of investment in this type of product. They will feedback to HMT when the results are known.

## **7. REGULATIONS UPDATE SCOTLAND**

The Committee noted the key points from paper D, which was presented by Kimberly Linge [KL].

### **LGPS (Increased Pension Entitlement) (Miscellaneous Amendments) (Scotland) Regulations 2019**

These regulations were signed on 19 December 2019 and come into force on 1 March 2020. Pension overpayments will be identified as part of the GMP reconciliation exercise. These regulations allow those overpayments to be converted to scheme awards, meaning that pensions in payment from Scottish public sector schemes will not be reduced when an overpayment is identified.

### **LGPS (Miscellaneous Amendments) (Scotland) Regulations 2020**

SPPA have consulted on these regulations that would allow Scottish ministers to substitute a different fund maintained by an administering authority for a scheme employer.

### **Section 13**

GAD has published its Section 13 report on the 2017 valuations of the 11 LGPS funds in Scotland.

### **SPPA consultation – statutory valuations**

SPPA have launched a consultation to seek views on changes to the local valuation cycle and the option of suspending an employer's liability to pay an exit payment. The consultation closes on 9 March 2020. The Committee noted that administering authorities in England and Wales had raised concerns about the move to a four-year valuation cycle. KL is aware of similar concerns in Scotland. JHu confirmed that no final decision has yet been made.

### **McCloud**

Scotland are awaiting the outcome from England & Wales before any action taken.

## **8. REGULATIONS UPDATE NORTHERN IRELAND**

The Committee noted the key points from paper E, which was presented by DM.

### **LGPS Regulations**

On 19 December 2019 regulations on marriages for same sex couples and civil partnerships for opposite sex couples in Northern Ireland were made at Westminster. In some cases, the changes will improve the benefits payable to a surviving same-sex spouse or same sex civil partner.

### **NI Government**

On 11 January 2020, Northern Ireland political parties agreed to enter into government. The local Minister will now be able to make appointments to the NILGOSC Committee. The Assembly will review all legislation that has been laid since January 2017.

## **9. UPDATE FROM TECHNICAL GROUP**

The Committee noted the key points from Paper F, which was presented by LB in the absence of Kevin Gerard [KG].

Administering authorities had been asked to agree to meet the cost of a procurement exercise for an online knowledge system for the LGPS in England and Wales. At the December Technical Group, it was unanimously agreed not to recommend that the LGA pursue this procurement exercise. The Norfolk Framework may be used to set up a list of suppliers.

The Technical Group discussed the CIPFA annual report guidance relating to KPI reporting. Concern was raised that no consultation had taken place even though a CIPFA working party had been established. CIPFA have been invited to the next Technical Group meeting in March to discuss how they can work more closely with administering authorities to ensure consistency in reporting standards.

The Technical Group is aware that not all funds have signed the National Insurance database data sharing agreement. The Group agreed that the LGA should contact Section 151 Officers, Chairs of Pension Committees and Local Pension Board to inform them of non-compliance.

## **10. TRAINING AND CONFERENCE UPDATE**

Elaine English [EE] reported that the Fundamentals Programme that ran from October to December 2019 over nine days at three locations was attended by over 300 delegates and the feedback received was very positive. EE also reported that the Annual Governance Conference that took place in York on 23/24 January 2020 was a great success. Over 150 delegates attended and gave very positive

feedback. Dates for next year's Fundamentals programme are currently being worked on and will be advertised at the next meeting. The 2021 Governance Conference will be held on 21 – 22 January in Bournemouth. If any member of the Committee would like to attend either the Fundamentals programme or the Conference as our guest, please secure your place by emailing EE at [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk)

Practitioner Training for 2020 will include the employer role, death and survivor benefits and the residential Insight course. The first events courses will run in March 2020 and will be advertised shortly.

ST asked if consideration could be given to providing training on the enhanced governance requirements once the Good Governance review is complete.

**11. ANY OTHER BUSINESS**

**12. DATE OF NEXT MEETING**

**4 May 2020, 10 August 2020 & 2 November 2020**

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## LGPS England and Wales - SAB update

### Key points to note

The Scheme Advisory Board held a virtual meeting on 25 August 2020 and considered the following items:

- McCloud consultations published
- 95K cap regulations published
- Good Governance report final recommendations
- Responsible Investment A-Z guidance.

The actions agreed by the Board are set out in the detail for each item below.

### Decisions

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

### McCloud

1. On Thursday 16 July, HM Treasury published a [consultation](#) on proposals to bring the unfunded public service pension schemes in line with the result of the McCloud/Sergeant case by removing age discrimination within the protections given to older members.
2. At the same time HMT published an [update on the employer cost cap process](#).
3. These were accompanied by a [statement from the Chief Secretary to the Treasury](#).
4. Later the same day, MHCLG published a [consultation on proposals to remove the McCloud age discrimination from the LGPS](#).
5. The [McCloud Q&A page](#) on the Board website has been updated

### Scheme changes for McCloud

The current protections apply only to scheme members who were within 10 years of normal pension age in 2012. In summary, the above consultations propose replacing the current protections, which were found to be discriminatory, by:

- Introducing protections for all who were members of a Final Salary (FS) public service pension scheme on 31 March 2012 and who subsequently become members of a CARE scheme.
- Providing that such protections, which will vary in detail across schemes, give the scheme member the right to the higher of the FS or CARE benefit for service up to 31 March 2022.
- Proposing that members of the unfunded schemes (including Teachers, Fire and Police) will have the option to choose FS or CARE benefits, either at the point the changes come into force or when benefits are taken.
- Proposing that members of the LGPS will automatically receive the higher of the CARE or FS when they take their benefits.
- Any increase in pension due to these changes will be taken into account for Annual and Lifetime allowance tax purposes.

The consultations run to October 2020, following which Government will take a view on the timing and nature of the primary legislation required to effect scheme changes. The objective is to have legislation in place by April 2022.

GAD estimates that the total cost of these additional protections across all public service pension schemes will be £17bn. £2.5bn of that figure represents the cost to the LGPS, or about 0.5% of payroll. LGPS Fund actuaries are, however, estimating the average cost to scheme employers of around 0.2% of payroll for the period to 2022 and a further 0.1% for past service.

**The Board was asked to agree next steps**, including the drafting of a technical response to the consultation plus comments on policy as follows:

1. That, as changes to the LGPS will not require changes to primary legislation, the LGPS regulation amendments should be made as soon as is practicable, given parliamentary timetables, even if their effective date is in line with later regulations for the unfunded schemes. This will ensure that the necessary systems and process changes have sufficient time to be implemented.
2. That central guidance be made available clarifying what will constitute 'reasonable efforts' to obtain the data from employers needed to construct final salary service for use in underpin calculations.
3. That where data is not available from employers, estimates of final salary service should ensure the scheme member is not disadvantaged.

4. That scheme members be informed of the amount of final salary service to be used in the underpin calculations in a communication separate from the Annual Benefit Statement.
5. That central guidance be made available on the priority to be given to types of benefits when backdating underpin calculations.

### **Cost cap**

The cost cap update stated that the process, which shares increases or decreases in scheme costs between members and employers and which is currently paused, will now be restarted. Previously, the outcome of the process indicated a reduction in scheme costs of about 0.9% of payroll which would have resulted in improvements to member benefits. However, the update confirmed that the costs of McCloud will be included in revised cost cap calculations which may well alter that outcome.

The Board's own cost cap process was also paused, however, **the Board was asked to agree to restart the process** given the Government's intentions regarding the HMT process and for GAD to recalculate the outcome including assumptions on the cost of McCloud as set out in HMT directions.

## **Capping of public sector exit payments – 'the £95k cap'**

### **Summary**

1. On 21 July, the [regulations for capping public sector exit payments](#) were published.
2. The regulations are affirmative in nature and therefore will need to be approved by both houses of parliament. They will come into force 21 days after that process is complete. The regulations also contain a schedule of employers covered by the cap.
3. We still await revised HMT directions and guidance on the implementation of the cap and the waiver process.
4. We understand MHCLG will publish a consultation on changes to the LGPS regulations to bring the scheme in line with the cap later in August or early September.
5. The [Public sector exit payments cap summary page](#) on the Board website has been updated.

## **The Cost Cap Regulations**

Regulations which limit public service exit payments to £95,000 were published on Tuesday 21 July. Despite extensive responses to the consultation last year (including from the Board) covering a raft of both policy and technical issues, there have been few changes from the draft regulations. The major points of concern remain as before – namely:

- The timing of the cap remains uncertain. Although the regulations state they come into force 21 days after being made, they are affirmative in nature and will therefore require parliamentary time to be found. We understand that HMT are aiming for an in-force date before the end of this calendar year.
- As it is not indexed, the level at which the cap is set will increasingly result in long serving middle-earners receiving reduced pensions on redundancy.
- As the cap includes pension strain costs, the restriction will seriously limit councils' ability to restructure management levels by consent, thereby impacting on the business case for such restructures.
- The process by which councils may secure an exemption from applying the cap is cumbersome, contradictory and significantly restricts the ability of councils to manage their own finances.
- The administration of the cap will be complex for pay and pensions teams and confusing for employees. It is likely to result in increased numbers of Tribunal cases and greater difficulty in reaching agreements on redundancy schemes, leading to increased cost.
- Without significant changes to LGPS regulations, scheme members will be forced to take a reduced pension at 55 and, as strain costs are currently set locally, will be subject to a 'postcode lottery' regarding the amount of that reduction.

The Chair of the Board has written to the Chancellor expressing the Board's concern over the administration of the cap and in particular the process required for councils to waive the cap in an attempt to influence the, yet to be published, HMT Directions and guidance.

## **MHCLG consultation**

Although we are yet to see the detail, we understand that the proposed changes to LGPS regulations will include:

- A requirement to apply the cap to scheme members who work for employers listed in the HMT regulations
- The ability for the scheme member to choose not to take reduced benefits immediately but rather to take a deferred benefit and a cash alternative
- A standard calculation method for pension strain costs.

In order to avoid the consequence of the HMT regulations overriding existing LGPS regulations, we understand that this consultation will be timed to ensure revised LGPS regulations are in force alongside those from HMT.

**The Board was asked to agree next steps** including the drafting of a technical response to the MHCLG consultation plus comments on policy as follows;

1. That any cash alternative is only offered to capped scheme members and not to all
2. That the option of an 'enhanced deferred benefit' rather than the cash alternative, is also made available to capped scheme members

## Good Governance Project

The Board appointed Hymans Robertson to examine the effectiveness of current LGPS governance models and to consider alternatives or enhancements to existing models which can strengthen LGPS governance going forward. Attention is focussed on standards, consistency, representation, conflict management, clarity of roles and cost.

The survey process and engagement with scheme stakeholders has enabled the project team to identify best practice within current governance arrangements, that is delivering good results which might have potential for wider application across the LGPS.

The project has now reached Phase III, the implementation stage where the recommendations made in the Phase II report from the Hymans Robertson project team are being considered by the Board's implementation group. Following representations from local authority members of the implementation group, the Board decided in April to stand down the group to allow work on the COVID-19 emergency to have priority.

In the meantime, the project team has continued to progress work on a number of draft papers including:

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- the proposals for a set of key performance indicators
- contents of a revised governance compliance statement
- statutory guidance to support the completion of the new governance compliance statement
- establishment of an independent entity to assess and report against the new governance compliance statement, and
- guidance setting out minimum requirements of knowledge and understanding for responsible person and decision makers.

**Following a verbal update from the Hymans Robertson project team, the Board agreed that work on preparing the draft papers for consultation and approval by the implementation group should continue.**

### **Responsible Investment A-Z**

On 24 February, SAB published a [statement in response to the consultation on Part 1 of the draft responsible investment guidance](#) conducted between November 2019 and January 2020. The statement confirmed the Board's decision to defer the proposed Part 1 draft guidance until the position on fiduciary duty and the Supreme Court judgment in the Palestine Solidarity Campaign Ltd has been resolved. The Board tasked the Secretariat to continue drafting guidance but without any reference to or advice on fiduciary duty.

Since then, work has progressed in drafting the Part 2 draft guidance which takes the form of an A to Z of responsible investment. To futureproof the listings and to offer administering authorities and other prescribed scheme stakeholders the opportunity to update the listings with relevant case studies the proposal is to develop the listing as an online tool with extensive search facilities.

It is further proposed that a Responsible Investment Advisory Group (RIAG) representing all scheme stakeholders should be established. The group will act as both an editorial board for future additions to the A to Z guidance and as advisers to SAB on responsible investment and related matters. The intention is for the RIAG to report directly to the Investment, Governance and Engagement Committee who will be responsible for recommending membership of the group to SAB for approval.

**The Board was asked to agree for the Secretariat to procure a web design team to build the online A to Z guidance and for the Investment, Governance and Engagement Committee to consider and make recommendations to SAB on the terms of reference and membership of the RIAG.**

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## LGPS England and Wales - regulation update

### Key points to note

- COVID-19 resources and surveys
- McCloud implementation group progress
- Change to exit credits enacted
- Changes to allow review of employer contributions and flexibility on exit payments enacted
- More changes to survivor benefits expected
- Government call for input on pensions tax relief for the lower paid
- Pensions dashboard update report published

### Decisions

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

### COVID-19 and the LGPS

We have undertaken various surveys since the middle of March to assess how LGPS administering authorities are coping with the impact of the pandemic and to help us tailor our support. We have also:

- set up a COVID-19 practitioner group to help measure and manage the impact of the pandemic on the Scheme's administration
- liaised with the Pensions Regulator and other bodies on issues impacting on the LGPS
- adopted a coordinated response across the three schemes (England and Wales, Scotland and Northern Ireland).
- provided dedicated COVID-19 news and information pages on our administrator and employer websites - [www.lgpsregs.org](http://www.lgpsregs.org) and [www.scotlgps.org](http://www.scotlgps.org).
- provided online FAQs for administrators, employers and scheme members
- run employer webinars.

The latest survey ran from 13 July to 12 August and was a follow up survey to the resilience, cash flow and governance surveys that were run in March and April. The results of three earlier surveys are available now on the [SAB website](#). The results of the follow up survey will be published shortly.

The results show that the LGPS is coping well and that administering authorities have responded effectively to the challenges posed by the pandemic. Administrators have a high level of confidence in their ability to continue to pay existing pensioners and process new retirements and deaths. A very small minority of funds have cash flow concerns and around 20 funds have reported that employers have contacted them with concerns about paying contributions. Looking to the future, administering authorities are most concerned about new national requirements, such as the McCloud remedy, the £95k cap, pensions dashboard etc, as well as staff wellbeing and training.

### **Death data**

The SAB is collating death data on the number of pensioner deaths from February on a monthly basis. Data is being collected a regional basis to help identify a pattern of deaths and pick up any indication of a second wave. The results will identify increases in demand on resources as well as regional differences.

The SAB is also working with two specific funds and their actuaries to identify the number of excess deaths. The actuaries will assess the impact, if any, of the types of excess death on the short-term cost of the Scheme. The measure could be extended to more funds if the results indicate it is a worthwhile exercise.

It is hoped the two measures combined will assist actuaries in assessing if any longer-term changes to assumptions will be required.

### **McCloud implementation group**

The SAB has set up two working groups to work with MHCLG in developing and implementing the LGPS McCloud remedy:

**Policy group** – to help MHCLG consider areas of policy not determined by HM Treasury

**Implementation group** – to assist administering authorities with the challenges of implementing and communicating Scheme changes.

The implementation group is made of representatives from employers, administering authorities, pension administration software suppliers, unions, actuarial firms, SPPA, NILGOSC and is facilitated and chaired by the LGPC secretariat.

To date the group has:

- produced standard McCloud wording for use in annual benefit statements
- produced [FAQs for scheme members](#)
- produced a collection of documents to assist administering authorities with the process of collecting the historical data they will need to implement the proposed remedy:
  - guidance for administrators
  - standard data collection template
  - notes to accompany the standard data collection template
  - key messages for employers
  - Q&As for employers
- obtained legal advice about the lawful basis that administering authorities could rely on when collecting and storing remedy data from employers
- met with the pensions administration software suppliers and obtained their agreement to produce a process map for implementing the changes.

The background to the McCloud case and the [MHCLG consultation on amendments to the statutory underpin](#) is covered in the SAB update (item 6 on the agenda).

### **Change to exit credits enacted**

On 27 February 2020, MHCLG published a [partial response](#) to the [Local valuation cycle and the management of employer risk consultation](#) in respect of the exit credit payments issue only. The partial response and the corresponding regulations that came into force on 20 March 2020 provide that:

- administering authorities may determine the amount of any exit credit payment due, having regard to any relevant considerations
- the period within which an exit credit must be paid is increased from three months to six months
- administering authorities will not be obliged to enquire into the precise risk sharing arrangement adopted
- any exit credits that have not been paid shall only be due if the administering authority exercises its discretion to pay them

- any exit credits that have already been paid shall be treated as if the administering authority exercised its discretion to pay that amount – an administering authority may not seek to change the amount paid
- the Pensions Ombudsman has jurisdiction to hear complaints if any dispute is not resolved using the internal disputes resolution process
- administering authorities should set out their exit credit policy in their Funding Strategy Statements.

## Changes to allow review of employer contributions and flexibility on exit payments enacted

On 26 August 2020, MHCLG published a [second partial response to the Local valuation cycle and the management of employer risk consultation](#). The response confirms that the regulations will be amended to allow greater flexibility on exit payments for employers and the ability to review employer contributions between valuations. The regulations to enable the changes were laid on 27 August 2020 and come into effect from 23 September 2020.

MHCLG have confirmed they will respond to the remaining proposals contained in the consultation in due course.

## Written Ministerial statement on survivor benefits

On 20 July 2020, the Chief Secretary to the Treasury made a [written statement on survivor benefits and public service pensions](#). The statement was in response to a Teachers' Pension Scheme Employment Tribunal case concerning the lower survivor benefits paid to a male survivor of a female scheme member compared to the survivor benefits paid to a same sex survivor.

“The Government has concluded that changes are required to the Teachers' Pension Scheme to address the discrimination. The Government believes that this difference in treatment will also need to be remedied in those other public service pension schemes, where the husband or male civil partner of a female scheme member is in similar circumstances.

Departments responsible for the administration of affected schemes will consult on and take forward changes as soon as possible.”

We await guidance from MHCLG on what action administering authorities in England and Wales should take.

## Call for evidence on Pensions tax relief administration

On 21 July 2020, HMT published [Pensions tax relief administration: call for evidence](#). The Government is seeking views on how different methods of tax relief operated by pension schemes affect the take-home pay of low-earning individuals.

The LGA will respond to the consultation before the closing date of 13 October 2020.

## Pensions Dashboards

On 8 April 2020, the Money and Pensions Service (MaPS) published a [Progress update report on the Pensions Dashboard Programme](#). The MaPS intends to release a progress report every six months. The first report sets out:

- the pensions dashboards goals and some of the challenges associated with delivery
- that Primary legislation will provide certainty about the requirements placed on schemes and the timescales for compliance
- the importance of secure and accurate identity verification
- the challenge of specifying a consistent set of data standards so that information from different schemes can be displayed consistently
- the need to identify when in the staged onboarding process the dashboards should be made available to the public
- the focus of the Pensions Dashboards Programme over the coming months.

MaPS has also launched a call for input on two working papers:

[Pensions dashboards data scope: working paper](#). The paper sets out options for achieving comprehensive coverage across all pension sectors to deliver an acceptable early breadth of coverage for individuals.

[Pensions dashboards data definitions: working paper](#). This lists the set of data items that could be included in the dashboards data standards.

Responses will help the MaPS deliver an initial set of data standards. The [LGA responded to the online survey](#) on 25 August 2020.

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## Regulation Update Scotland 2020

### **1. Regulations - The Local Government Pension Scheme Pensions (Increased Pension Entitlement) (Miscellaneous Amendments) (Scotland) Regulations 2019**

1.1 These regulations provide for a new scheme award known as an Increased Pension Entitlement (IPE) which reflects the GMP-related overpayment. The effect of this is that all pensions currently in payment will remain unadjusted.

1.2 These regulations were laid on the 20 December 2019, came into force on 1 March 2020. They have effect from 8 April 2019, however they also apply to earlier schemes, including from 12 November 1979 up until 8 April 2019.

### **2. Regulations – The Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2020**

The Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2020 were laid on the 20 February and came into force on 31 March 2020. These regulations provide that Scottish Ministers may, on application by an administering authority, issue a direction substituting a different fund maintained by that administering authority as the appropriate fund for a scheme employer.

### **Government Actuary's Department (GAD)**

### **3. Cost Cap**

3.1 On 16 July HM Treasury [announced](#) that the pause on the cost control element of the 2016 valuations should be lifted. This announcement coincided with the publication of the consultation on the changes to the transitional arrangements to the 2015 schemes in E&W (McCloud/Sargeant remedy).

3.2 As part of the un-pausing, HMT considers the cost of addressing the discrimination identified by the McCloud/Sargeant judgement to be a member cost. The McCloud/Sargeant remedy cost will therefore be included as part of the cost control mechanism.

3.3 GAD will recommence work on unpausing the cost cap valuation on receipt of draft directions from HMT, although the work will not be possible to complete until the Directions are finalised, which will be after the UK Government has considered responses to the proposals in the McCloud consultation.

#### **4. SPPA Consultation - Statutory valuations & Suspension notices**

4.1 In 2019, the UK Government directed that the E&W LGPS schemes' statutory valuations should move to a quadrennial (four yearly) cycle, and SPPA published a consultation seeking the views of stakeholders on whether scheme and local valuations should be aligned in Scotland.

4.2 SPPA also asked for feedback on the 'Suspension notice' provisions in Regulation 61(3) and (4) of the regulations, which were designed to allow some flexibility in the settling of the employer's exit payment, whilst protecting other employers in the scheme. Scottish Ministers were interested to learn how they are functioning in practice, in order to review their use and effectiveness.

4.3 The consultation concluded in March 2020. An interim report was provided to the Scottish Pensions Liaison Group and Investment Group for their comments at their meetings on 26 June. We have also shared with the LGPS SAB (Scotland) secretariat for information. SPPA intend to consider all comments and provide a full response before publishing our report.

#### **5. Consultation – Addressing discrimination in the LGPS & amendments to the statutory underpin**

5.1 As you are aware, the courts have found transitional protections given to older members in the judicial and firefighters' pension schemes directly discriminated against younger members in those schemes.

5.2 In line with the UK government's commitment to remove the difference in treatment from all public service pension schemes with similar protections, SPPA are seeking views on proposals that would extend LGPS statutory underpin protection to younger members of the scheme.

5.3 SPPA published our consultation; "Addressing discrimination in the LGPS & amendments to the statutory underpin" on the 4 August 2020. The consultation is available to view on the [SPPA website](#) and will run until 23 October 2020.

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## Regulations Update Northern Ireland 2020

### 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 On 5 May 2020 the [Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2020](#) were made by the Department for Communities (DfC). This brief set of amendments makes minor technical corrections that do not change policy and have a minor impact on administrative practices.
- 2.2 In advance of the Department making amending regulations for the Goodwin case, we expect it to issue a letter of intent so that NILGOSC can comply with the Tribunal ruling in advance of the regulation change.

### 3. Governance

- 3.1 The NI LGPS Scheme Advisory Board last met in March at which the proposed remedy for McCloud was discussed. There was no appetite from either the employer or employee side to explore a more administratively simple solution to that proposed. Minutes of previous meetings can be found on the SAB's website at <https://www.communities-ni.gov.uk/articles/local-government-pension-scheme-northern-ireland>.
- 3.2 We expect the DfC to issue its formal consultation on the McCloud remedy in September. We also expected the Department of Finance to launch its consultation on the McCloud remedy for the Northern Ireland unfunded schemes in August. All consultations will mirror those in the rest of the UK.

3.3 NILGOSC continues to work closely with DfC, SPPA and MHCLG as well as GAD and LGA through a series of regular conference calls in order to identify key issues for LGPS administrators across the UK and to provide specific policy or administrative responses and guidance during the COVID-19 crisis.

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## Training and annual conference update

Fundamentals has been cancelled as a face to face event, but three one-hour Zoom webinars will run to cover some of the headline topics. Gary Delderfield of Eversheds Sutherland, Steve Lee of 91 and Annemarie Allen of Barnett Waddingham have kindly agreed to present.

Our Annual Governance conference that was planned for January 2021 is also unlikely to go ahead, but this is subject to discussion.

All face to face training has been cancelled until April next year. Take up for online training places has, however, been excellent and 22 online events will have been held as at the 7 September, with a further 15 booked out to be run up until January.

Elaine has done an excellent job in negotiating the move of the pre-booked events to 2021. We plan to resume face to face training in April 2021, all being well. Once face to face training resumes, online training will continue to be offered.

Although, income from our annual conference and fundamentals training is expected to be significantly lower this year, income from employer and practitioner training is anticipated to be higher than the previous two years.

We have launched online bite-size interactive training for employers on the employer section of [www.lgpsregs.org](http://www.lgpsregs.org). Initially, we have published six modules covering all aspects of Assumed Pensionable Pay. We plan to deliver further bite-size training on various topics in the coming months.

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