

# Local Government Pensions Committee

## Agenda

11am – Monday 3 February 2020

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Item		Timings
1	Introduction from the new chair	11:00
2	Apologies for absence and declarations of interest	11:05
3	Minutes of meeting held on 6 November 2019 - <b>Paper A</b>	11:10
4	Matters arising	11:15
5	Regulations update for England and Wales – <b>Paper B</b>	11:20
6	SAB update for England and Wales – <b>Paper C</b>	11:35
7	Regulations update for Scotland - <b>Paper D</b>	11:50
8	Regulations update for Northern Ireland - <b>Paper E</b>	12:00
9	Update from Technical Group - <b>Paper F</b>	12:10
10	Training and annual conference update	12:20
11	Any other business	12:25
12	Dates of future meetings: 4 May 2020, 10 Aug 2020 & 2 Nov 2020	

Meeting location – Smith Square 1 & 2, Ground floor, 18 Smith Square, London, SW1P 3HZ

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**LGPC MINUTES**

**MEETING HELD ON 6 NOVEMBER 2019**

**PRESENT**

Cllr John Fuller	Substitute Chair, LGA
Cllr Goronwy Edwards	LGA
Cllr Phil Murphy	LGA
Cllr Richard Wenham	LGA
Cllr Adam Paynter	LGA – Dial in
Mr David Murphy	NILGOSC
Mr Kevin Gerard	Technical Group rep – Dial in
Ms Nicola Mark	Scheme Advisory Board adviser
Ms Kimberly Linge	SPPA

**Secretariat**

Ms Lorraine Bennett	LGPC
Ms Rachel Abbey	LGPC
Ms Elaine English	LGPC
Mr Bob Holloway	LGPC

**1. INTRODUCTION FROM NEW CHAIR**

The new Chair, Cllr Byron Rhodes [BR] was unfortunately unable to attend the meeting due to rail problems. Cllr John Fuller [JF] agreed to Chair the meeting.

JF introduced himself to the meeting and gave a brief outline of the remit of the LGPC and the Scheme Advisory Board [SAB].

JF welcomed the new members to the LGPC and introductions were made. No declarations of interest were reported. It was noted that due to restrictions in place during the pre-election period the Committee is not able make decisions.

**2. APOLOGIES**

Apologies were received from Cllr Byron Rhodes – LGA, Cllr Simon Blackburn – LGA, Cllr Sharon Taylor – LGA, Cllr Alan Waters – LGA, Cllr Clive Lloyd – SAB observer and Mr Jeremy Hughes – MHCLG.

### 3. MINUTES

The minutes of the previous meeting held on 8 July 2019 were agreed.

### 4. MATTERS ARISING

Tier 3 employers update. Bob Holloway [BH] gave an update stating that in 2017, the SAB was asked to look into the potential funding, legal and administrative issues relating to LGPS employers that do not benefit from taxpayer backing. There is a risk that when an employer of this type exits the LGPS they leave orphan liabilities that are passed on to the remaining Scheme employers, such as local authorities. The SAB appointed Aon to work on the project. Aon presented a report in 2018 which includes 85 possible options for change.

A SAB working group has been set up to consider and prioritise the options, with the aim of identifying 12 top options. The group has already met twice and will meet for a third time shortly to agree a final list of options for consideration by the Board in February 2020. The group will also consider the proposals published earlier in the year by MHCLG to change the status of HE/FE employers.

Budget Item 5. Nicola Mark [NM] informed the Committee that the LGA Pensions Team is under a lot of pressure to do more regulatory work due to the decreasing staff numbers at MHCLG. MHCLG want a more formal arrangement concerning the SAB's involvement for producing statutory guidance. This shift in responsibilities from central to local government has funding implications. BH agreed to take this up at the SAB meeting in the afternoon.

**Action:** To report the findings of the SAB to the next meeting.

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

Lorraine Bennett [LB] presented the key points from paper B.

LB stated that since the last meeting a SI had been laid to change the LGPS regulations in respect of the benefits paid to a surviving same sex civil partner. Legislation is being laid to permit same sex civil partnerships from 31 December 2019.

LB confirmed that there will be no further regulation changes until after the election.

#### £95K Cap

LB stated that HM Treasury (HMT) plan to introduce the cap no sooner than 1 April 2020. The cap was first consulted on in July 2015 and a further consultation was launched in April 2019. HMT received over 600 responses to the latest consultation. You can read the consultation documents and the LGA response on the [LGPS administrator website](#). JF noted that including pension strain cost in the cap meant that the proposed cap would affect lower paid staff with long service. BH noted this is not in line with the policy of encouraging pension savings.

### Fair Deal

The consultation on Fair Deal and strengthening pension protection for Scheme members whose job is compulsorily transferred closed on 4 April 2019. This is currently on hold, but the LGA will work closely with MHCLG to produce guidance once pre-election restrictions are lifted.

### Exit Credits

When exit credits were introduced in 2018, an administering authority was required to pay a credit to an exiting employer within three months of the date they stop being a Scheme employer. MHCLG consulted on amending this regulation in May 2019 to allow the administering authority to take side agreements and risk sharing into account when assessing the amount of exit credit is payable.

Amending regulations have now been delayed due to the pending election and will not be enacted until April 2020 at the earliest. Funds have significant exit credits outstanding and find themselves in a 'legal limbo'.

### The Pensions Ombudsman (TPO)

TPO upheld a complaint against an administering authority regarding a transfer of LGPS benefits to an occupational scheme. TPO instructed the administering authority to reinstate the member's LGPS benefits. TPO were critical that the administering authority had not recognised that the member did not have a statutory right to transfer to an occupational scheme because she was not an 'earner'. It was agreed that the LGA Pensions advisers will:

- amend the relevant template transfer forms to include a question concerning the earning status of the deferred member
- include an article in the next LGPC Bulletin about this TPO determination and its implications for transfers from the LGPS to another occupational scheme, and
- discuss the case at regional meetings.

NM noted this causes concern for administrators as more onus appears to be placed on them to assess how 'financially savvy' a member making a transfer request is. JF suggested producing a case study on the impact of a pension scam to be provided to members considering transferring.

**Action:** LGPC secretariat to review current publications concerning transfers and update them as necessary.

### Pensions Bill

A Pension Schemes Bill was announced in the Queen's Speech that would strengthen TPR's powers, set up a framework to support the provision of pensions dashboards and introduce regulations covering pension transfers. The Bill could be re-enacted by the new Government.

### LGPS Statistics

MHCLG published [statistics](#) on the LGPS in England and Wales for 2018/19 on 16 October.

BH noted that the number of deferred members exceeded the number of active members for the first time in 2018/19. The funding position of the Scheme as a whole is good, but there are still issues at fund level.

#### DfE consult on phased withdrawal from Teachers' Pension Scheme (TPS) for independent schools

This consultation proposes that independent schools be allowed to continue to offer TPS membership to existing teachers, but to stop offering TPS membership to new teachers. The increase in TPS employer contribution rates from September 2019 may lead to more independent schools deciding to end participation in the TPS. The proposal aims to prevent a large number of establishments exiting the TPS at the same time. The LGA have responded to the consultation. The response raised concerns that the phased withdrawal proposal makes it easier for independent schools to exit the TPS. If more independent schools do exit the TPS, there is a risk that the cost of meeting the liabilities for deferred members will fall on remaining employers participating in the TPS such as local authorities and academies. The [LGA response](#) is on the LGPS administrator website.

#### Member Videos

LB stated that the member videos are due to be launched very soon. There will be English and Welsh language versions of seven videos. Kevin Gerard [KG] suggested that a video covering transfers or pension scams may be useful.

**Action:** LB to raise the issue at regional groups and see if there is demand for a member video covering 'what to consider if you are thinking about transferring your pension'.

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

BH presented the key points from paper C highlighting that no new regulations will be enacted during the pre-election period.

#### Good Governance

BH stated Hymans Robertson were awarded the contract to look into how LGPS functions are delivered within the local authority framework.

Hymans recommended the introduction of consistent standards for administration and governance based on outcomes. There should be an independent assessment of the administering authority's performance against those standards. The SAB has set up working groups to consider what those desired outcomes are and how the performance of administering authorities should be assessed. The third stage of the project will cover what is needed from statutory guidance for administering authorities. JF asked what the role of the internal auditor would be. BH confirmed that internal audit could perform the assessment, but they must work to the same standards as an external provider.

#### Investment Guidance

The SAB will be publishing two sets of guidance i) definitions and duties and, ii) options for and examples of best practice. The second phase of the project will start in 2020.

### The Pension Regulator (TPR) cohort report

TPR have published a report setting out their findings following engagement with ten LGPS scheme managers. The report can be viewed on the TPR website. The SAB will be responding to TPR concerning areas of the report which the SAB feel need clarification.

### McCloud judgment

The SAB formed a small working group to look at the potential impact of this judgment on the LGPS. It has been confirmed that the LGPS will be treated separately from the rest of the public sector in respect of the McCloud remedy. The [cost management page](#) of the SAB website has been updated to reflect the most recent developments.

### Section 13

The Government Actuary Department [GAD] made three recommendations to improve consistency in valuation results that the SAB addressed as part of the 2016 fund valuation. The SAB set up a working group to establish a valuation 'dashboard' to be used in future valuation exercises, to explain the link between funding strategies and discount rates and develop proposals for academies.

## **7. REGULATIONS UPDATE SCOTLAND**

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

### **LGPS Regulations (Scotland) Pension Amendment (Increased Pension Entitlement) Regulations 2019**

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.

### **Section 13**

Scottish Ministers have appointed GAD to report on the 2017 valuations of the 11 LGPS funds in Scotland. GAD will present their report at the next meeting of the LGPS (Scotland) Advisory Board (LGPSAB) on 30 October.

### **Statutory valuations**

Scottish Ministers will shortly be seeking views from Scottish administering authorities on the proposal to move to quadrennial valuations to align with the scheme valuation.

### **Third sector cessations**

The LGPSAB has set up a working group to consider options to increase flexibility when a third sector employer exits.

## 8. REGULATIONS UPDATE NORTHERN IRELAND

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

### **LGPS Regulations**

On 23 October, regulations were made to implement the outcome of the Brewster case by formally deleting the requirement to nominate a cohabiting partner. The amendment regulations also make minor amendments and corrections to the LGPS (Northern Ireland) regulations.

### **Governance**

Trade unions are considering legal action related to the pausing of the cost cap process and the intention to apply the McCloud remedy before performing the cost cap calculations.

## 9. UPDATE FROM TECHNICAL GROUP

The Committee noted the key points from Paper F, which was presented by KG.

Administering authorities have been asked to agree to meet the cost of a procurement exercise for an online knowledge system for the LGPS in England and Wales. Not all administering authorities have agreed to this exercise. A final decision has been deferred until the next Technical Group meeting in December.

The GMP reconciliation exercise continues. There has been some progress on the actions that administering authorities should take in relation to stalemate cases. KG confirmed that HMRC correspondence concerning individuals who have never been a scheme member will be destroyed in order to comply with data protection legislation.

NM asked whether the Technical Group would be the appropriate body to look at Benchmarking. KG stated that he would raise this at the next meeting in December and ask for volunteers to set up a working group.

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

## 10. TRAINING AND CONFERENCE UPDATE

Elaine English [EE] reported that the Fundamentals Programme currently underway is proving very popular. EE confirmed that the Annual Governance Conference taking place in York on 23/24 January is also proving very popular, with lots of bookings already received. A copy of the programme was distributed at the meeting. An invitation for a complimentary place for each LGPC member was extended. Due to high demand, EE requested that any member of the Committee who wanted to accept this invitation contacts her by email as soon as possible.

Practitioner Training and the Insight programme will commence from February 2020.

## **11. ANY OTHER BUSINESS**

Worcestershire Pension Fund – section 8.9 of the [SAB guidance](#) for local pension boards states that the terms of reference for local pension boards should include procedures to report concerns which are sufficiently serious to be reported directly at a higher level, or where the a concern has been raised with the pension committee and the local pension board consider the committee have not taken appropriate action to rectify the issue (or appropriate action within a reasonable time period).

8.11 of the guidance suggests escalation via the SAB or the Responsible Authority where internal channels are not appropriate or are considered to have failed.

Worcestershire Pension Fund are considering appointing SAB Chair Cllr R Phillips as Chair of their local pension board and have requested permission to substitute the SAB with the LGPC for this purpose in the terms of reference.

The consensus was that it would still be appropriate for SAB to look into any concern raised by Worcestershire as long as Cllr R Phillips declares a “conflict of interest” and does not vote.

## **12. NICOLA MARK**

JF announced that this would be the last meeting that NM attends as she is retiring at the end of the year. JF thanked her on behalf of the Committee for her invaluable contributions, not only to the LGPC but to the pensions industry as a whole, and in particular for what she has achieved in Norfolk. He wished her well in her future ventures. LB thanked NM on behalf of the LGA for all her contributions over many years.

## **13. DATE OF NEXT MEETING**

**3 February 2020 and 4 May 2020.**

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## LGPS England and Wales - regulation update

### Key points to note

- Response to local valuation cycle and employer risk consultation expected
- Pensions Bill reintroduced
- Regulations amended for opposite sex civil partners
- Exit payment reform
- Regulations and guidance still awaited

### Decisions

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

### Local valuation cycle and the management of employer risk

We understand that MHCLG will respond to the above [consultation](#) in February and that the response will include a change to the regulations to allow administering authorities to take into the amount of risk borne by an employer when calculating an exit credit.

Exit credits were introduced into the LGPS from May 2018. The current wording of the regulations provide that an exit credit must be paid where employers leave the Scheme in surplus. Since their introduction it has come to light 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. MHCLG acknowledges that where the risk of a deficit on exit is removed it is not always appropriate that an exit credit is payable if there is a surplus.

Background information on the other proposals included in the consultation is available in [LGPC's response](#) to the consultation.

### Pensions Bill reintroduced

In the Queen's Speech on 19 December 2019 it was announced that the Government will reintroduce the Pension Schemes Bill. The Bill will strengthen TPR's powers, create a legislative framework to support pensions dashboards and introduce regulations covering the right to a pension transfer.

The Bill has been introduced in the House of Lords with a date for a second reading confirmed as 28 January 2020. The Parliament website includes the latest versions of [documents related to the Pension Scheme Bill](#), including draft legislation and Explanatory Notes.

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

[The LGPS \(Amendment\) Regulations 2019](#) are effective from 31 December 2019. They amend the Transitional Regulations 2014 by introducing benefits payable under the earlier regulations to surviving opposite sex civil partners.

The regulations provide that the benefits payable to surviving opposite sex civil partners are equal to those paid to surviving opposite sex spouses.

The Timeline regulations available on [www.lgsregs.org](http://www.lgsregs.org) have been updated to reflect these changes. We are currently reviewing and updating the survivor guide, member guides and other documents to reflect the changes.

The Civil Partnership (Opposite-sex Couples) Regulations 2019 allow opposite sex couples to give notice of a proposed civil partnership from 2 December 2019. This means that the first opposite sex civil partnership registration could have taken place on 31 December 2019, after the 28-day waiting period.

### **Exit payment reforms**

The Government first announced plans to reform exit payments payable in the public sector in 2015. We understand the reforms are intended to achieve better value for the public purse and to increase consistency in treatment across the different parts of the public sector.

The proposals will have an impact on the LGPS, particularly where a member is 55 or over and is made redundant. Currently such members would become entitled to the immediate payment of their full retirement pension and this would usually involve the payment of a strain cost by their employer.

The implementation timescales for the reforms have been significantly delayed; however, we anticipate that progress is now expected in the areas below:

#### **1. Exit cap**

Under the exit payment cap, where an individual leaves a public sector employment, the total exit payments that their employer can make in respect of that exit will be capped at £95k.

The exit payments that count towards the cap will include the strain cost payable in respect of an LGPS pension coming into payment early - for instance, where a scheme member aged 55 or over is made redundant and has an entitlement to the immediate payment of an unreduced pension.

HMT first issued a consultation on the exit cap in the summer of 2015. A second consultation was launched in April 2019; the [consultation](#) included draft regulations, guidance and Directions to implement the cap.

The 2019 consultation documents and the response submitted by the LGA are available to view on the [non-scheme consultations](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

## 2. Exit payment recovery

The exit payment recovery proposals (sometimes referred to as clawback), provide that where an individual with a salary of more than £80,000 leaves a public sector employment and re-joins the public sector within 12 months, they may be required to pay back some or all of the exit payments they received from their former employer.

Any LGPS strain cost paid by the individual's former employer in respect of the cost of putting a redundancy pension into payment will count toward the total amount that the individual has to pay back to their employer.

Under draft regulations the Government consulted on in December 2015, the repayment amount will be calculated by reference to the individual's salary at leaving their prior employment, tapered by the gap in time between the two public sector employments.

Draft regulations include a mechanism to waive repayment in limited circumstances. In the case of Local Authorities and local government bodies within their delegated powers, the full council would have to take the decision whether to grant a waiver and this would have to be reported and published as part of Annual Reports and Accounts.

### **Fair deal update**

As reported previously, MHCLG's consultation on '[Fair Deal – strengthening pension protection](#)' closed on 4 April 2019. The Government's response to the consultation is still awaited.

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.

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## Scheme Advisory Board – England and Wales

### Key points to note

- Good Governance working groups' recommendations
- Draft Responsible Investment guidance for consultation
- Update on McCloud
- Simplification and Guidance
- Employer support

### Decisions

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

### Good governance project update

As previously reported, Hymans Robertson were awarded the contract to look into how LGPS functions can be accommodated within the democratically accountable local authority framework. Their findings were presented to the SAB at the July meeting and a further update together with the findings of the two working groups were presented to the 6<sup>th</sup> November Board meeting in the form of a report which can be found at [http://lgpsboard.org/images/PDF/BoardNov2019/Item\\_4\\_Paper\\_B-Good\\_Governance\\_Report-final.pdf](http://lgpsboard.org/images/PDF/BoardNov2019/Item_4_Paper_B-Good_Governance_Report-final.pdf)

In summary, the findings were:

1. publication of a new Governance Compliance statement to include an LGPS responsible person, resources allocated to function, scheme of delegations for LGPS decisions, LGPS budget process and outcome measures.
2. outcome measures should use existing indicators where possible
3. updated guidance should be published or signposted/approved by MHCLG
4. guidance should set out minimum requirements of knowledge and understanding for responsible person and decision makers
5. for governance reviews to be biennial and on a consistent basis; they may use external or internal resource
6. the introduction of a LGPS 'Peer Challenge' process

SAB approved resources for a further phase of the work to identify the outcome measures to be used and the format of this work together with a timetable for implementation of the findings will be presented to the February Board meeting.

## **Responsible Investment guidance**

The SAB will be publishing two sets of guidance on the subject of Responsible Investment these being:

- definitions and duties
- options for and examples of best practice.

A draft of the first set of guidance was agreed the November Board meeting and was circulated for public consultation until the end of January 2020. The February Board meeting will consider responses to that consultation and the next steps for the guidance.

In particular the guidance seeks to provide a level of clarification on the complex matter of fiduciary duty and which responses indicate a degree of variation in understanding. The Supreme Court judgement of the Palestine Solidarity Campaign's appeal against the Government's right to restrict Local Government Pension Schemes (LGPS) from divesting contrary to UK foreign and defence policy is expected shortly and may provide some clarity in this area.

Work on the second set of guidance will commence shortly and will be informed by the feedback from a joint SAB/DG Publishing Responsible Investment Conference held at Smith Square on 15<sup>th</sup> January.

## **Update on the McCloud judgment**

Following the decision of the Supreme Court to deny the Government's request for an appeal in the McCloud and Sargeant case, the matter was referred back to the Employment Tribunal (ET) for remedy. Case Management meetings for the ET were scheduled for 7 October (Judges' Schemes) and 18 December (Firefighters).

On 15 July 2019 the Chief Secretary to the Treasury announced that the findings in the McCloud case would be applied to all public service pension schemes.

The [cost management page](#) of the SAB [website](#) contains background information to the above, including a [Q&A](#) which is updated as further details emerge.

At its February meeting The Board will be asked to agree the formation of two working groups to assist with the implementation of necessary regulatory changes following the outcome of the case and the subsequent ETs. These will be

1. A small policy group to assist MHCLG in considering any areas of policy which will not be centrally determined
2. A larger implementation group including practitioners, member representatives, actuaries, software providers and employers which will consider the challenge of implementing and communicating the changes to the scheme.

It is hoped that a broad outline of the government's proposals for remedy will become available during the next month with a consultation for the LGPS following in the spring. However, the timetable for laying regulations is uncertain as changes

may be required to primary legislation which will be subject to the parliamentary timetable.

There could therefore be a considerable period between awareness of the remedy and the ability for administering authorities to implement it. This will be useful for preparation of processes and systems but could lead to uncertainty amongst scheme members and in increase in the number of cases that will require recalculation.

The SAB will be issuing further communications during this period for both authorities and scheme members in order to minimise the levels of uncertainty and hopefully avoid unnecessary and time consuming claims similar to those currently being experienced in the Teachers Scheme.

### **Simplification and Guidance**

The work on potential simplification of regulations (replacement by guidance) and the development of SAB guidance for new regulations (for example Fair Deal) was put on hold during the majority of 2019 due to issues around parliamentary timing. It is anticipated that both of these workflows will now be restarted.

### **Employer support**

This project will seek to take the forward the recommendations of the Academy and Tier 3 projects in this area. In particular continued improvement in data quality via Pensions Administration Strategies and flexibilities on exit including deferred employer status.

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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. Pensions currently in payment will remain unadjusted.

1.2 The regulations were signed on 19 December 2019 and will be in force from the 1 March 2020.

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

SPPA is about to consult on draft regulations to 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. It is anticipated that this will apply in limited circumstances.

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

### **3. Section 13 of the Public Service Pensions Act 2013**

As LGPC members are aware from the previous update on 6 November 2019, GAD published its Section 13 report on the 2017 valuations completed by actuaries acting for the 11 pension funds in Scotland. The Section 13 analysis assesses whether the four main aims [compliance, consistency, solvency and long term cost effectiveness] have been achieved. A letter to Fund Authorities will be published shortly on the SPPA website asking for their views on implementing GAD's recommendations in the report, to ensure consistency of reporting in future.

### **4. SPPA Consultation - Statutory valuations**

4.1 SPPA have published a consultation to seek the views of stakeholders about possible changes to the local fund valuation cycle. In 2019, the UK Government directed that the LGPS schemes' statutory valuations should move to a quadrennial (four yearly) cycle, and our consultation asks whether scheme and local valuations should be aligned.

4.2 Also, we are seeking to assess the impact of changes introduced in 2018 to the provisions in Regulation 61, which provide administering authorities with the option of suspending an employer's liability to pay an exit payment when managing the process of an employer exiting the scheme. The consultation will close on 9 March 2020.

<https://pensions.gov.scot/local-government/scheme-governance-and-legislation/consultations>

## **5. McCloud – Employment Tribunal**

5.1 As you are aware, in December 2018 the Court of Appeal ruled that the transitional protections provided in the Judicial and Firefighters pension scheme unlawfully discriminated against younger workers. The UK Government's application to the Supreme Court was rejected in June 2019 and in July the UK Government conceded that the ruling applied across all public service pension schemes providing any sort of transitional protection. This includes the Scottish LGPS.

5.2 HM Treasury is leading on proposals to address the discrimination across all schemes, with SPPA involvement at Steering, Technical and Litigation Groups. Case management hearings are currently underway for unfunded schemes. The specific protection in the LGPS schemes differs from the other schemes – the statutory underpin in the transitional regulations applies only to those within ten years of retirements on 31 March 2012. A cross LGPS-scheme approach that will remove this discrimination and clarify a number of other issues identified is currently being finalised.

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## Regulation 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 19<sup>th</sup> December 2019 the [Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019](#) were made at Westminster by the Secretary of State. Section 121 details the amendments to be made to the NI LGPS regulations.
- 2.2 These amendments provide for survivors' benefits of same-sex marriages and opposite-sex civil partnerships. The key change is that, irrespective of gender, the survivor's benefit of a same sex marriage or a same sex civil partnership will be calculated as per a 'current' widow's benefit. In the event of same sex post-leaving marriages or civil partnerships then the survivors' benefits will be calculated on membership from 5/4/78. This improves the position for survivors of post-leaving same sex civil partnerships, where before the calculation was based on membership from 5/4/88.
- 2.3 This leaves the male survivors of post-leaving opposite sex marriages and post-leaving opposite sex civil partnerships (and eligible cohabiting partners) as the only groups with service for survivor benefits counting from 5/4/88.

### 3. Governance

- 3.1 The NI LGPS Scheme Advisory Board last met on 11 October 2019. Minutes of the meeting can be found on the SAB's website at <https://www.communities-ni.gov.uk/articles/local-government-pension-scheme-northern-ireland>.
- 3.2 There have been no developments in the Trade Union side's proposed legal action around two particular aspects of Cost Cap and McCloud.

### 4. Northern Ireland Government

- 4.1 On 11 January 2020 the Northern Ireland political parties agreed to enter into government and appointed ministers to the Northern Ireland Executive. With a local minister now in place appointments to the NILGOSC Committee will be made by that minister rather than the Secretary of State. The Assembly will review all legislation that was laid in the Assembly from January 2017 and could decide to revoke the legislation. Two sets of LGPS regulations were made during this time (minor amendments and Brewster changes).

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## Technical Group – update

### Background

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.

### Update from December 2019 Technical Group meeting

- You will recall from the previous update that 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 appeared 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. Unfortunately, only 25 signed 'Undertaking in Principle' documents were received, and the standing members of the Technical Group unanimously agreed not to recommend that LGA pursue a procurement exercise on behalf of all LGPS Administering Authorities.
- Technical Group discussed the CIPFA annual report guidance specifically relating to KPI reporting as this had been raised at several POGs and also at LGPC. Concerns were expressed that whilst CIPFA stated there was a 'working group', had any consultation taken place with either administering authorities or software suppliers? Technical Group agreed it would be of benefit that administering authorities could measure and share KPI's. However, from the current guidance what is being measured along with the start and end point of each KPI is unclear. Technical Group have invited CIPFA to the March 2020 meeting in order that we can work together to clearly identify what is being measured whilst ensuring consistency from both administering authorities and software suppliers.
- 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 noted that a number of funds had not signed new data sharing agreements nor uploaded data to the NI Database. Technical Group agreed that the LGA should contact the Section 151 Officers, Chair of Pensions Committee and Chair of Local Pension Board to inform them of the non-compliance.
- The Technical Group has recommended changes to the regulations to allow a member who left the scheme before 1 April 2014 to use their AVC pot to

purchase additional pension under the scheme. This will make this class of scheme member options consistent with other scheme members. It has become increasingly difficult for members to purchase an annuity where the value of the AVC pot is below the minimum value set by AVC providers.

- MHCLG provided an update on statutory guidance for the calculation of survivor benefits.

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