Local Government Pensions Committee
Technical Group

Minutes of the meeting held on 12 December 2014 at the offices of AON Hewitt, 10 Devonshire Square, London EC2M 4YR

Present

M Hopwood (Chairman)	North East
B Claxton	London
R Smyth	London
G McLellan	East Midlands
I Howe	East Midlands
A Hyde	Shrewsbury
Z Kee	Northern Ireland
A South	South West
T O'Connor	South West
L Miller	South Wales
K Gerard	South Wales
D Goodwin	Secretary
L Downer	Southern
G Chapman	North East

In Attendance

P Kateley	Heywood Limited
D Friend	Civica
S Campbell	AON Hewitt Limited
C Carruthers	Capita
A Allen	Barnett Waddingham
J Perera	Mercers
C Martin	Environment Agency
I Colvin	Hymans Robertson
J Davies	PriceWaterhouseCoopers

LGA
T Edwards
J Houston

DCLG
L Jones
B Town

As some members were attending the meeting for the first time the Chairman asked all members to introduce themselves.

1. Apologies

Apologies were received from the following:-

D Kanaris	AON Hewitt Limited
C Lewis-Smith	Southern
A Cheffey	South West
N Thomas	Mercers

2. LGPC Update

A full LGPC update is attached as Appendix 1 at the end of these minutes.

Terry spent some time going through the various items on the update.

3. Orphaned AVCs

This matter was discussed at length and a conclusion reached. It was agreed that Terry would produce a paper which would answer the points raised. This will be issued to all Authorities in due course.

4. Additional pension contracts

a) Should we move to a single form application process?
b) How should APC contracts to buy “lost” pension be dealt with if there is a subsequent retrospective payment covering the period of absence the “lost” pension relates to
c) How should APC contracts to buy “lost” pension be dealt with if the member does not complete payment of the contract?

Following discussion on these questions it was agreed that:

a) one form should be used which the employee would download from the national APC calculator, complete, and then send to the employer to certify that the information is correct. This will then be sent to the Administering Authority to decide if a medical is required and to take the necessary action.

b) in relation to this scenario, the pragmatic approach - set out in the paper should be taken when dealing with APC contracts to buy lost pension where there is a subsequent retrospective payment covering the period of absence the lost pension relates to. In consequence, no updates should be made to the notes or election forms.

c) in relation to this scenario, if the member does not complete payment of the APC contract it should be treated as a debt. So the full amount of pension would be credited when they leave and the member would have an outstanding amount of contributions still to pay which would be dealt with as an outstanding debt to the Fund. It will require an amendment to the Regulations to achieve this.

5. Public Sector Pensions Forum

This matter was discussed in detail and it was agreed that the Part A details required which were raised in the email correspondence were details that are normally supplied by members when they commence employment.

With regard to the Part B details required, if members have a problem with these please can you contact Terry with your comments.

6. Tell us once

Terry explained that a decision was required by the end of December as to whether funds should sign up to the TUO facility. He also mentioned that this would only work if all funds sign up for the NI database programme which has been produced by the LGA and will be hosted by South Yorkshire.

The cost was estimated at £100,000 for the first year which appeared to be good value. This could be recouped by increasing fees to the LGA. It was also agreed that if other schemes decided to join then we will ask for a rebate.

It was agreed by members to sign up to this facility and to proceed with work on the NI database. It was also agreed that the cost should be recouped by the increase in fees levied by the LGA.

7. Death grants

This question was discussed and it was agreed that a pragmatic decision should be made on a case by case basis. It was also suggested that recipients should be required to sign an authority which in the case of an incorrect payment would allow the Authority to recover the amount overpaid.

It was agreed that where a payment is made in error by one fund but the other fund has not made the correct payment then this should be sorted out by the funds involved. Where both payments have been made to the same recipient the fund which has paid in error should seek recovery. Where a payment has been made to a different person in error the fund who has made the payment will have to seek recovery.

8. Councillors benefits

Following some discussion on this question it was agreed that Terry would do some further research and let Kevin have a response to his question.

9. Questions raised by JPG

The question was asked, "Should periods credited from contracted in transfers received after 5 April 1988 be included for the calculation of a widower's pension in respect of a post leaving marriage? Is there any justification for treating contracted in transfers differently from contracted out transfers?"

The very quick answer given at the Technical Group was that this is no longer an issue for a death occurring on or after 1 April 2014 because membership transferred from a contracted in or contracted out scheme should count. That is the position the LGPC was seeking to get to in regulation 17(13) of the Transitional Regulations. The LGPC Secretariat is of the opinion that the Transitional Regulations didn't quite deliver this and have therefore asked for an amendment to be made as follows:

Transitional Regulations: reg 17(13) – please amend to read "Membership for the purposes of paragraphs (10) to (12) includes –

(a) any additional membership referred to in regulations 42(a) to (d) of the 1997 Regulations (reduction of some surviving spouse's pensions) or equivalent provisions in the 2008 Scheme where –

(i) the surviving spouse or civil partner was married to or in a civil partnership at any time whilst the deceased was in active membership of the Scheme after 31st March 1972, or*

(ii) the cohabiting partner was cohabiting with the deceased at any time whilst the deceased was in active membership of the Scheme after 31st March 2008, and*

(b) for the purposes of any survivor pension payable to a cohabitee, any pre 6th April 1988 membership the member had purchased under regulation 14A of the Benefits Regulations and regulation 24B of the Administration Regulations

and, for the purposes of paragraph (12) the reference in regulation 42(a) of the 1997 Regulations to "5th April 1988" shall be amended to "5th April 1978"."

[* cohabiting partner's pensions were not introduced into the LGPS until 1st April 2008, hence the reference to 31st March 2008. Although civil partner's pensions were not introduced until 5th December 2005 there is no need to make a reference to that date as no-one could have been in a civil partnership between 1st April 1972 and 4th December 2005. Similarly, although same sex marriages did not come into existence until 29th March 2014, there is no need to make a reference to that date as no-one could have been in a same sex marriage between 1st April 1972 and 28th March 2014.]

The reasons for this are that:

(a) Transition reg 17(13) is, by cross referring to paragraphs (10) and (12), clearly meant to ensure that relevant additional membership counts for the purposes of a survivor's benefit following a post leaving marriage, post leaving civil partnership or post leaving cohabitation, thereby ensuring consistency of approach regardless of the type of post leaving partnership. However, the desired result is not achieved by simply referring to regulation 42 of the 1997 Regulation (as that regulation only refers to relevant additional membership in the context of a post leaving widower's pension) – it does not cover post leaving widowers (who were previously covered by regulation F6 of the 1995 Regulations) or post leaving cohabiting partners who had previously been cohabiting prior to the member ceasing active membership. Making the suggested amendment will ensure that relevant additional membership counts in a consistent way for all types of post leaving partners (as the references to (10) and (12) in Transitional reg 17(13) clearly intend. The reason that I have referred to "or equivalent provisions in the 2008 Scheme" is because, for example, ill health enhancement awarded under the Benefits Regulations should be included but regulation 42(4)(a) of the 1997 Regulations only mentions ill health enhancement awarded under regulation 28 of the 1997 Regulations. Also, the reason that I have not referred to regulation 42(4)(e) is because that sub-paragraph has been a known error for a number of years given that transferred in membership already counts as post 5th April 1978 or post 5th April 1988 membership by virtue of regulations122(5) and (6) of the 1997 Regulations, and

(b) Transitional regs 17(10) and (13) limit a cohabiting partner's pension to post 5th April 1988 membership only, ***even if*** the member had paid extra contributions to ensure that pre 6th April 1988 membership counted towards a surviving cohabiting partner's pension. Clearly, period of membership purchased by the payment of extra contributions should be counted.

However, the LGPC Secretariat notes that regulation 31 of the draft LGPS (Amendment) Regulations 2015 hasn't quite delivered the above as the amended regulation 17(13) of the Transitional Regulations still refers to regulation 42 of the 1997 Regulations rather than to regulations 42(a) to (d) of the 1997 Regulations. The LGPC Secretariat will be making the point in its response to the draft Amendment Regulations that it is necessary to refer to only regulations 42(a) to (d) [i.e. to exclude regulation 42(e)] as 42(e) is, and always was, an erroneous provision given that it was contradicted by regulations 122(5) and (6) of the 1997 Regulations.

For deaths that occurred prior to 1 April 2014 please see the extract below from the old “how membership counts” table:

How period acquired:	What period counts towards:										
	Qualifying for 3 months retirement benefits[1]	Qualifying fo r 5 years ill health enhancemen t[3]	Working out NRD of ex '95 member i.e. 25 year rule[4]	Working out 85 year date[5]	Maximum membership of 40 yrs at 60 / 45 yrs at 65[6]	Calculation of amount of ill health enhancemen t[7] (plus see footnote X)	Calculation : Retirement grant[8]	Calculation : 80^{ths} pension[9]	Calculation: pre leaving marriage widower's pension[11]	Calculation: Post leaving marriage spouse's pension[12]	Calculation: child's pension[13] and pre leaving marriage widow's pension[14]
Transfer credit, TV received: Men: before 6.4.78 Women: before 6.4.88	[30]YES	[19]YES	[19]YES	[19]YES	[34]YES	[19]YES	[19]YES	[19d]YES	[25]NO (unless elected to count it)	[26]NO-widows [27]NO-widowers	[19]YES
Transfer credit, TV received: Men: after 5.4.78 Women: after 5.4.88	[30]YES	[19]YES	[19]YES	[19]YES	[34]YES	[19]YES	[19]YES	[19d]YES	[19b]YES	[39]???-widows [38]YES-widowers	[19]YES

[12] Regulations 42, 43, 122(5), 122(6), 20(6) and 20(8); and regulation 9(3) of the LGPS (Transitional Provisions) Regulations 1997
[26] Regulation 42(1)
[27] Regulation 42(2). Note: if a female member elected to uprate her 1.4.72. to 5.4.88. membership for widower's pension purposes the service would, by virtue of regulation 9(3) of the LGPS (Transitional Provisions) Regulations 1997, count as post 5.4.88. membership. It would appear that this would then count towards a post retirement widower's pension. However, the amendment made to regulation 42(3) by SI 1998/1238 contradicts this and says that the service can only count if the member has remarried the same person to whom they were previously married at some point whilst in active membership after 31.3.72. The ODPM are considering the current inconsistencies associated with regulation 42.
[38] Membership derived from a transfer in received under regulation 121 after 5.4.88. counts towards a post retirement widower's pension in all cases due to regulation 122(6) which states that transferred in membership counts as post 5.4.88. service. However, it can be argued that membership derived from a transfer in does not count for a

widower's pension by virtue of the amendment to regulation 42(3) made by SI 1998/1238 unless, after leaving, the member remarries the same person to whom they were previously married whilst in active membership post 31.3.72. There appears to be an inconsistency between regulations 42(3) and 122(6).

[39] Regulation 42(1). Only post 5.4.78. contracted-out employment (as defined by section 8(1) of the Pension Schemes Act 1993) counts for post retirement marriage widow's pension. The Technical Group, at its meeting on 10 May 2002, concluded that for the purposes of regulation 42(1) contracted-out employment (as defined by section 8(1) of the Pension Schemes Act 1993) does not include membership derived from a transfer in from another contracted-out scheme. However, the CLASS Joint Pensions Group has taken the opposite view on the basis that the service credit calculation under regulation 122 includes an element for a spouse's pension, and the service credit is to be treated as post 5.4.78. service by virtue of reg 122(5).

10. Terms of reference
This item was deferred until the next meeting.

11. Minutes of the last meeting
These were accepted as a correct record.

11a. Matters arising from the minutes
There were none.

12. Any other business

a) DWP Employee communication

Lynda explained that DWP wanted to publicise the abolition of GMPs and the increase in NI contributions to all employees and they wanted to know the optimum time to send this communication.

The communication working party have asked to see what is being sent out and are encouraging the DWP not to release anything until mid 2015 at the earliest and the group agreed with this view.

13. Date and venue of next meeting
13 March 2015 at the offices of Mercers – Tower Place East.

Brian Town explained that he is finally leaving DCLG and wanted to say goodbye to the many friends he has made during his representation on the group. The Chairman said that his participation in the group had been enlightening and interesting and wished him well for the future.

Appendix 1

LGPC update – December 2014

Turnaround times
A lot of the team's time / resource is at present being taken up with all matters connected with the LGPS 2015 in Scotland and with Board and sub-committee matters, so response times might be a bit longer than people are used to.

Bulletins / Circulars
As a result of the above there was no Bulletin at the end of September. Bulletins 119 and 120 were issued in October and November.

Circular 286 was issued in November 2014 covering the pension implications of the non-consolidated payments made as part of some 2014 pay awards.

The work of the Communications Working Group - Work plan 2014/15
Administering authorities might wish to note the CWG work plan for 2014/15.

Core topic	Details	Timeframe (aim for delivery)
Aggregation leaflet	- Develop a member information leaflet to share with pension funds which will cover the topic of aggregation from April 2014 - NB: there was a breakout session at the Torquay Pension Managers' Conference in which the outstanding issues on aggregation were discussed. The outcomes were reported in Bulletin 120. As a result of the issues raised, DCLG are checking whether the wording of Schedule 7 of the Public Service Pensions Act 2013 can be construed in such a way that would mean there is no ongoing final salary link if a member retains separate deferred benefits (and has not had a continuous break in active membership of a public service pension scheme of more than 5 years). Failing that, the LGPS Secretariat will seek a meeting with HM Treasury to make one further attempt to persuade them that there should be no ongoing final salary link if a member retains separate deferred	- End of December 2014

	benefits (and has not had a continuous break in active membership of a public service pension scheme of more than 5 years). Also, see comment under "**Draft LGPS (Amendment) Regulations**" heading below.	
Annual Benefit Statements (ABS)	- Develop template for active ABS for 31 March 2015 - Develop guidance notes to accompany the template ABS	- End of December 2014
LGPS Member Website	- Go live with www.lgpsmember.org website - This will be the new member website for the LGPS (replacing both www.lgps.org.uk and www.lgps2014.org) - LGPC working on content and delivery - subgroup to review test pages before launch - consider online tool to assist members as part of a drive to focus on the 'affordability' of retirement rather than a retirement age (inc. rule of 85 information)	- Originally planned for end of Summer 2014 but realistically now early 2015 (due to priority of other work streams).
Year-end information 2014/15	- Develop excel template for year-end info at 31 March 2015 - Develop guidance notes to accompany the template year-end spreadsheet	- January 2015

Draft LGPS (Amendment) Regulations

DCLG issued draft LGPS (Amendment) Regulation on 5 December 2014. The closing date for responses to the consultation on the draft Regulations is 30 January 2015. The LGPC Secretariat will be responding to the consultation.

Note that the consultation raises a question concerning aggregation.

Under the 2008 Scheme members retained separate benefits unless they made an election within 12 months of re-joining the Scheme (or such longer period as the employer might allow) to aggregate. When we moved to the 2014 Scheme we took the view that, looking forward to a situation where people might only have benefits in the 2014 Scheme, it would make far more sense to move to a position where benefits were automatically aggregated unless the member made an election within 12 months of re-joining the Scheme (or such longer period as the employer might allow) to retain separate benefits. Thus, automatic aggregation would be the norm because, in a pure CARE environment, there would be little or no real benefit in retaining separate benefits.

However, we are now realising that this is having a number of consequences that we had not envisaged when making the decision to move to an automatic aggregation approach. The main issue that has arisen is that it is causing problems with the assessment of the pension input amount in a pension input period for annual allowance purposes (where the member has not confirmed by the relevant 31 March whether or not they wish to aggregate). A secondary problem is that it may not be possible to get all administering authorities to act in a concerted way and to only request an Inter-Fund Adjustment when the member has confirmed that they don't want to retain separate benefits or, in the absence of such confirmation, after 12 months has elapsed from the date of re-joining the Scheme. A divergence of approach between administering authorities will cause difficulties e.g. one administering authority might decide to request payment of an IFA after 3 months but the sending administering authority refuses on the grounds that the member has not yet confirmed that they do not wish to retain separate benefits and has 12 months to do so.

The LGPC Secretariat is, therefore, of the view that, to overcome these issues, it may be better if the Regulations were amended to revert back to the position where members retain separate benefits unless they make an election within 12 months of re-joining the Scheme (or such longer period as the employer might allow) to aggregate. The question posed in the consultation document accompanying the draft LGPS (Amendment) Regulations provides an opportunity to request that, as suggested above, the Regulations are amended to revert back to the position where members retain separate benefits unless they make an election within 12 months of re-joining the Scheme (or such longer period as the employer might allow) to aggregate.

Technical guides
The LGPC Secretariat is working on updates to the Technical Administration guides and hopes to issue the updates by the end of December.

Ill health retirement
The Admin and Comms sub-committee met on 4 September 2014 and agreed a number of options for further consideration in order to rationalise / streamline the ill health retirement provisions and procedures in the LGPS. These are to be costed by GAD before being further considered by the sub-committee in early 2015 with a view to making recommendations to the Scheme Advisory Board. Further details can be obtained by viewing the relevant report (agenda item 4a – Paper C) and minutes of the meeting of 4th September 2014 at
http://www.lgpsboard.org/index.php/sub-comms/administration-and-communications

The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [SI 2014/3138]
The above regulations come into force on 1 April 2015 and set out the records public service pension schemes will have to keep under section 16 of the Public Service Pensions Act 2013.

Database for ongoing final salary link / multiple death grants
A demo of the proposals for the database was given to the Technical Group at its meeting on 19 September together with an outline of the likely start-up costs (£20,000) for South Yorkshire Pension Fund to develop the database.

The Secretariat sought a steer from Technical Group as to:

a) whether they agree that work on developing the database should continue (for instance, there are no fundamental issues with the proposal) and

b) whether the ballpark start-up costs are seen to be reasonable.

The Technical Group agreed that the £20k in start-up costs (and c£5k annual maintenance costs) was reasonable (split across all Funds) and made some suggestions as to how the current proposed system could be amended / improved. The costs would be added to the LGPC subscriptions.

A first cut version will shortly be made available to members of the Technical Group for testing. It is hoped to have the system up and running by the end of 2014 / early in the new year.

In essence, funds will provide an upload of some basic info (including the NI number and contact details within the |administering authority) to SYPA on a periodic basis e.g. monthly or more frequently if they wish. When someone dies in service the administering authority will enter the first 8 alpha/numeric of the NI number and all matches will be displayed. This allows funds to speak to each other / e-mail each other where there is a match in order to avoid overpaying a death grant; similarly, for the final salary link, funds will be able to check whether a person to whom they are about to calculate / award a deferred benefit has benefits in the LGPS elsewhere. The system could also be used / developed for other purposes e.g. to check whether a person has other rights in the scheme when considering making a trivial commutation payment; to check whether a pensioner is accruing benefits in another fund (for those funds that still abate pre 2014 LGPS pensions and for all funds where a pensioner is in receipt of CAY); to check whether a member has rights in another Fund before processing a refund; to check whether a person has 'orphan' AVCs in another Fund before paying pension benefits; for scheme members to enter their NI number to trace which fund(s) is /are currently holding benefits for them; etc.

The database has been raised with other public service pension schemes to see if they would also be interested in participating (as it would enable scheme to check whether members have pension records in other schemes for the purposes of the 5 year final salary link).

Tell Us Once (TUO)
Conversations have been held with TUO but there was a potential problem with the participation of the LGPS as, unlike the majority of other public service pension schemes, there is no central contact point for a notification of death to be sent to. Furthermore the chance of the person notifying the death being aware of the correct LGPS fund may be small unless they have access to the necessary documentation.

For the LGPS to participate in TUO a method was therefore needed to match the notification to the correct LGPS fund and the NI database was suggested as a potential source for such a data match. Discussions are ongoing with DWP under which TUO would be provided with a partial copy of the database (NI Number and fund indicator) in order for TUO to search for a death where the notification contains an indicator of an LGPS public service pension and an NI Number. If there was a match TUO could then contact the correct fund or funds.

DWP now wish all public service pension schemes who wish to participate in TUO to make a firm commitment to do so by the end of December 2014 in order that DWP can commence development. A paper is on the Technical Group agenda for 12 December 2014 to seek their view on whether or not to proceed (based on a TUO development cost to the LGPS of between £78,850 and £98,250, plus a small ongoing fee).

Governance guidance
The article in Bulletin 118 on governance guidance says that a consultation on the draft guidance covering the creation and operation of local pension boards was to be undertaken

by the Shadow Scheme Advisory Board (SSAB) towards the end of September. However, issuing the draft guidance was delayed until 17 October because DCLG did not issue the draft governance and cost management regulations until 10 October. The guidance is laid out in the following chapters:

1. Introduction
2. Background
3. Legislative background and structure of governance arrangements
4. The Pensions Regulator
5. Constitution and Membership of a Local Pension Board
6. Board Knowledge and Understanding
7. Conduct of Members and Conflicts of Interest
8. Reporting
9. Resourcing
10. Other Possible Structures
11. Other Guidance

Schedule A
Schedule B

The consultations on the draft regulations and the draft guidance both ended on 21 November 2014.

The LGA/LGPC response to the consultation on the draft regulations is available from the LGPS Regulations website.

The Shadow Scheme Advisory Board's Secretariat is currently reviewing the 22 responses received to the SSABs consultation on the SSAB guidance and will be making any necessary amendments in the coming weeks. In addition the guidance will be reviewed in line with final regulations which are expected to be made and laid in January 2015 as well as the Pension Regulators Code of Practice no 14 which is expected to be made and laid before Parliament in December. It is anticipated that the final version of this guidance will be issued in January 2015 in line with the making of final regulations. In addition a Questions and Answers document on the subject of local pension boards is also being developed by the SSAB and due to be issued at the same time as the guidance. Lastly, template Terms of Reference for local boards will be issued towards the end of December / early January.

Scrapping of contracting-out
A decision is still awaited on how GMPs are to be treated for PI purposes from April 2016.

Training
Following LGPS2015 training for Scotland in January, the training programme will get back to the basic training events. These commence with Understanding the Employer Role in February 2015 and Transfer Values in March 2015 – see LGPC Circular 287 for further details. It is also intended that Insight – the residential course – will be resumed, probably in May and again in September.

Training for local board members is also being planned (although dates have not yet been decided). Likely to be in first few months after April 2015 rather than waiting for Fundamentals Oct-Dec 2015 (which is probably a bit too long to wait). A decision on what the course will cover and when / where it will be run will be taken shortly and then advertised via an LGPC circular.

Perspective

About two-thirds of administering authorities responded to the e-mail of 30 July re Perspective. Around a third of administering authorities expressed an interest in the product and the LGPC Secretariat is now in further discussions with Pendragon to determine whether or not we can come to an arrangement for those authorities wishing to use Perspective.

Administering authorities have also been asked to feedback their thoughts on whether to continue with the Westlaw subscription from April 2015. Only a very small number expressed an interest in continuing with the Westlaw product (between 12 and 15 depending on whether or not a deal is struck with Pendragon). As a result it has been decided that the central contract with Westlaw will be discontinued from May 2015. This was confirmed in an e-mail to Pension Managers on 15 December 2015. If any funds do wish to continue making use of Westlaw beyond April 2015, the LGPC Secretariat is happy to assist in trying to achieve a price from Westlaw which is better than that offered from the company directly (although recognising that this may not be possible given the limited number of funds interested).

Academies

A number of administering authorities have responded to the Secretariat's e-mail of 18 July and supplied the Secretariat with details of the difficulties they are experiencing in obtaining data from academies and from maintained schools who have outsourced their payroll (or are running a payroll themselves). The Secretariat is now liaising with DCLG to seek a meeting with DfE.

Talks are ongoing between DCLG, fund actuaries, DfE and GAD (representing DfE) over the DfE wish to ensure a consistent approach to setting the employer contribution rate for maintained schools that convert to academies. It seems likely that it will not be necessary to 'unpick' cases where conversion has already occurred.

Pension Schemes Bill and Taxation of Pensions Bill

The Pension Schemes Bill 2014/15 is currently making its way through the House of Lords. This Bill is one of two pieces of legislation (the other is the Taxation of Pensions Bill as referred to in Bulletin 119) being considered by Parliament at the moment. Both Bills deal in the main with the regulatory changes required for defined contribution schemes following the new flexibilities (**freedom and choice**) announced in the 2014 Budget to allow individuals who aged 55 or over to access their defined contribution pension in more flexible ways from April next year.

As part of the Pension Schemes Bill 2014/15 one of the impacts on funded public service pension schemes, such as the LGPS, is that the government has sought to extend the flexibility being afforded to defined contribution members as far as possible by allowing transfers out of the LGPS to continue from April 2015. However in order to protect taxpayers from significant cost risk if members of funded public service schemes were to transfer out to a defined contribution scheme and draw down their pension flexibly, the government will introduce a number of safeguards for transfers from funded public service pension schemes.

As a result the Government in November laid a series of amendments to the Pension Schemes Bill. Of these, three affect public service pension schemes. These are:

- A requirement to take independent financial advice when transferring from a defined benefit to a defined contribution scheme (as opposed to the "Guidance Guarantee" that will be offered to those in defined contribution arrangements as they approach retirement);
- A ban on transfers out of unfunded public service schemes to a defined contribution scheme as previously announced by the government, and

- A new safeguard that will give Ministers a power to reduce CETVs in funded public service pension schemes, should it prove necessary to protect the taxpayer.

DCLG recently issued a summary paper on the amendments introduced by government and this can be found on the LGPS Regulations website.

No decisions have yet been taken on how freedom and choice will be catered for in the LGPS in relation to AVCs. A meeting is being held on 19 December 2014 between the LGPC Secretariat, DCLG and the Prudential to discuss possible options. For example, the following could apply:

- Pre April 2014 arrangement = max contribution of 50% of pay, 100% tax free lump sum
- Post March 2014 arrangement drawn before April 2015 = max contribution of 100% of pay, 25% tax free lump sum
- Post March 2014 arrangement drawn after March 2015 = max contribution of 100% of pay, 100% lump sum of which 25% tax free and 75% taxed at the marginal rate.

Lastly, it should be noted that in its response to 'Freedom and Choice in pensions' the Government said that the trivial commutation and small pot rules will continue to apply to defined benefit schemes. These rules allow individuals to take up to £30,000 of total pension savings as a lump sum, or a £10,000 small pot as a lump sum regardless of total pension wealth. However, the age at which an individual can make use of these rules will be lowered from 60 to 55.

DWP issue Consultation on Disclosure Regulations
DWP commenced a consultation on the 3 November on technical amendments to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

The proposed amendments are expected to come into force in April 2015. DWP state that they will ensure that the regulations work as intended in relation to the new public service pension schemes which are being introduced from April 2015 under the Public Service Pensions Act 2013. They have also included some additional drafting amendments to the regulations which were identified as being desirable.

The LGA/LGPC response to the recent DWP consultation on technical amendments to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 can be found on the LGPS Regulations website. In essence, we did not agree that there should be an exemption from issuing a benefit statement following a request from a member if the member had been provided with an automatic Annual Benefits Statement in the previous 12 months 9as this would be a worsening of the current rights a member has).

In addition when researching legislation to form a response to the above we came to the following conclusions:

- when issuing Annual Benefit Statements to active scheme members we must comply with the Public Service Pensions Act 2013 (Section 14), and therefore the HM Treasury Direction on Benefit Information Statements, as well as the provisions of regulation 89 of the LGPS Regulations. We are not required to comply with the Disclosure Regulations 2013 for these Annual Benefit Statements (except in the link from the Direction to Parts 1 and 2 of Schedule 5 of that Act which contains the type of information to be provided on an Annual Benefit Statement). This is because the

Annual Benefit Statements are produced automatically rather than following a member request.

- for Annual Benefit Statements issued to deferred and pension credit members we have to comply with regulation 89 of the LGPS Regulations 2013. However, we are not required to comply with the Disclosure Regulations 2013 for these statements (again because the Annual Benefit Statements are produced automatically rather than following a member request).

Club membership

The agreement between employers and unions for LGPS 2014 made no provision for the continuation of club arrangements in its costing of 19.5%. Furthermore Cabinet Office (who administer the club rules) guidance stated that Club arrangements were not appropriate for Career Average (CARE) schemes.

A revised transfer Club is being proposed by HM Treasury to cover voluntary transfers between Public Service Pension Schemes. These proposals include extending these arrangements to protected members (those who retain a right to membership of the 'old scheme') and those with service in the new CARE schemes.

The LGPS (all UK schemes) will face additional costs in meeting these new arrangements in the following ways.

a) As the LGPS does not have an open final salary scheme it would have to offer 'underpin arrangements' to non LGPS qualifying members at extra cost.

b) CARE members would have their transferred pension amount continually revalued at the rate applicable to the scheme they left. For example teachers who transfer to LGPS would continue to have the transferred pension revalued at CPI plus 1.6% rather than the CPI rate applying to the LGPS. As the LGPS has the lowest revaluation rate of all the public service schemes (apart from Civil Service) this arrangement is always a cost to the LGPS.

c) Administration systems and processes will have to be adapted to cope with calculating underpins for members without qualifying LGPS service and multiple pension accounts each with its own revaluation rate.

Discussions have taken place with DCLG and HMT over the possibility of the terms of the club being adjusted so that a larger transfer from a sending scheme would buy extra pension in the LGPS which would then be revalued at the standard LGPS rate. However to date these discussions have not been successful.

A potential solution is for the LGPS to remain as part of a new outer club (which could include all current club members apart from the unfunded Public Service Schemes). The outer club would continue to provide arrangements for final salary benefits only. Any CARE benefits transferred would simply ‘buy’ an amount of pension in the LGPS CARE scheme.

An alternative solution is to seek to withdraw from the club altogether and instead write terms into the scheme for transfers from other public service schemes which seek to protect the membership accrued for final salary benefits only. Any CARE benefits transferred would simply ‘buy’ an amount of pension in the LGPS CARE scheme.

In either case, if an employer felt that the change was proving detrimental to recruitment from the other schemes there are provisions for employers to grant extra benefits within the terms of LGPS 2014 (for example, to grant an additional amount of annual pension in the

CARE scheme). Alternatively, for transfer from the NHS, individual direction orders can be requested to enable members to remain in that scheme even after transferring to another employer.

The LGPC passed a motion to write to the Chief Secretary to the Treasury requesting that the LGPS should be allowed to withdraw from the current Club arrangements. The motion was considered by the Shadow Board on 8 December 2014 who agreed that the letter should be sent.

Automatic enrolment
The Department for Work and Pensions (DWP) has published a consultation document on the level of the auto-enrolment earnings thresholds for April 2015 to March 2016. The Government is consulting on four options for the 2015/16 earnings trigger:

OPTION	Rate
Option 1 – Freeze the trigger at its current level	£10,000
Option 2 – Raise the trigger by indexation (CPI or Earnings)	£10,183 (CPI) £10,045 (Earnings)
Option 3 – Increase the trigger in line with the threshold for paying income tax	£10,500
Option 4 – Use the Pension Commission's benchmark replacement rate to determine the trigger	£9,876

The Government is also proposing that the lower earnings threshold (currently £5,772) and the upper limit of the qualifying earnings band at which mandatory employer contributions are capped (currently £41,865) should be equal to the National Insurance Lower Earnings Limit (Primary Threshold) and Upper Earning Limit for 2015/16 (i.e. £5,798 and £42,285 respectively).

The consultation can be viewed at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/363705/automatic-enrolment-earnings-thresholds-2015-2016.pdf and closes on 25 November 2014.

DWP have also issued a consultation on proposed changes to the automatic enrolment provisions – see https://www.gov.uk/government/consultations/workplace-pensions-automatic-enrolment-simplifying-the-process-and-reducing-burdens-on-employers. On a very quick read it looks like one of the changes could mean that, except in respect of employees with a contract for less than 3 months, employers would only have to deal with contractual enrolment and not have to monitor optants out to see if they subsequently became an eligible jobholder prior to the next re-enrolment date. All the employer would have to do is check, at the next re-enrolment date, which optants out are eligible jobholders and bring them in at that time (if they hadn't opted out in the previous 12 months). The LGPC Secretariat will consider the consultation in more detail and prepare a response by the closing date of 9 January 2015.
Postscript: on a detailed reading of the draft amendments it appears that the proposal is not quite as far reaching as imagined above. Instead, the proposal is to not have to automatically enrol or re-enrol any eligible jobholder if they had opted out of contractual enrolment within the period of 12 months preceding the date they would have to be automatically enrolled or re-enrolled.

Councillors

The following e-mail email was sent on 14 October from the Cllr David Sparks OBE, the Chair of the Local Government Association, to all LGA member Council Leaders and Leaders of Groups.

Pensions for councillors

Dear colleagues,

As you will be aware the Local Government Pension Scheme (LGPS) transitional regulations issued on 10 March 2013 confirmed that councillors in England (including the Mayor of London and GLA members) will no longer have access to the scheme with effect from the end of their term of office finishing after 31 March 2014. For many councillors this resulted in their exit from the scheme in May of this year while others will remain in the scheme until 2017 at the latest.

A number of member councils have enquired if the LGA would consider creating an alternative pension provision for those councillors who no longer have access to the LGPS. In seeking to explore the options, and respond to these requests, the LGA has worked on the following basis:

- councillors should only be able to pay their own money into such a scheme (i.e. no contributions from councils)
- there should be no risk to the LGA or councils with regard to the liabilities of such a scheme

The options investigated are as follows and the LGA would now wish to seek an indication of the demand should it progress with either option:

Option1 – A Group Personal Pension
Group Personal Pension (GPP) schemes are essentially individual arrangements grouped together to provide scale and therefore more competitive fees and service standards. Under this option the LGA would approach a number of GPP providers and negotiate a suitable fee structure and level of service administration standards.

Once the scheme is set up, it would be up to councillors to contact the provider directly in order to join, arrange for payments to be made and for funds to be selected. The councillor may also be responsible for ensuring they receive tax relief (not all schemes provide for deduction at source while for all schemes higher rate relief would need to be claimed directly from HMRC).

Option 2 – Trust based LGA scheme
Under this option the LGA would establish a board of trustees and set the parameters of the scheme, including the levels of contributions from members, range and structure of investment funds (including the default fund) and the administration arrangements with the needs of councillors in mind. There would be set up and regulatory costs which would have to be met by those councils which choose to use the scheme via a top-up to their LGA subscription.

As both options are Defined Contribution pension schemes all of the future liability risk is taken by the contributing member, not the LGA or the council to which they belong.

I would be grateful if you could respond to this letter by email to Liam Robson, Pension Analyst (liam.robson@local.gov.uk), indicating your level of interest should the LGA proceed with either of these options for alternative pension provision for councillors.

In your response please indicate your contact details and in particular, the council you are responding on behalf of.

Yours sincerely

Cllr David Sparks OBE
Chair, Local Government Association

Short Service Refunds
The Government has announced that "short service refunds" will be abolished from next year. Currently, a member of an occupational pension scheme who leaves with less than 2

years membership can withdraw their pension contributions. From October 2015, DC schemes will only be allowed to make refunds within the first 30 days of membership. The LGPS is not subject to the announcement which makes it clear that “defined benefit occupational pension schemes and personal pension schemes are not affected. Defined benefit occupational schemes will retain the facility to make short service refunds as these will not be within the scope of automatic transfers. Personal pension schemes are not affected by this policy as they have never had the facility to make short service refunds.”

For further information see - *Further boost to workplace pension saving with abolition of 'short service refunds' from next year*

I’ve checked the position re LGPS AVCs and the LGPS appears to be OK because the AVC provision is part of the main scheme. Thus, if a member leaves with less than 2 years qualifying service we can refund both the main scheme benefits and the AVC pot. The ban on refunding DC contributions applies where the member only has money purchase benefits under a scheme. Section 71 of the Pension Schemes Act 1993, which is being amended to deliver the ban on DC refunds, will read as follows:

71 Basic principle as to short service benefit
(1) A scheme must make such provision that where a member's pensionable service is terminated before normal pension age and-
(a) he has at least 2 years' qualifying service,
(aa) he has at least 30 days' qualifying service and, if he were entitled to benefit because of this paragraph, all of it would necessarily be money purchase benefit, or
(b) a transfer payment in respect of his rights under a personal pension scheme has been made to the scheme,
he is entitled to benefit consisting of or comprising benefit of any description which would have been payable under the scheme as long service benefit, whether for himself or others, and calculated in accordance with this Chapter.

Firemens’ Pension Scheme (FPS)
The LGA has appointed Clair Alcock (from Heywood) as the FPS Adviser. Clair commenced on 8 December 2014.
Tel: 020 7187 3189

Actuarial Guidance
The LGPC Secretariat has been in correspondence with DCLG over recent months seeking clarification on a number of matters relating to the Secretary of State’s actuarial guidance for the LGPS in England and Wales. These were detailed in an e-mail which the Secretariat sent on 20 October 2014 to all Pension Managers in England and Wales and to the pensions administration software providers.

DCLG issued an e-mail on 4 December 2014 providing updates to various items of actuarial guidance. A meeting is being held between the LGPC Secretariat, DCLG, GAD and the pensions administration software providers on 16 December 2014 to discuss any issues resulting from the amended guidance, items of guidance that are still outstanding and issues around revaluation.