

APPENDIX ONE

Synopsis of Proposed Scheme Changes to LGPS & Overriding Pension Legislation June 2022

Department for Levelling Up, Housing and Communities (DLUHC)

McCloud Judgment

The Committee has been apprised of the issues and impact surrounding the McCloud judgment. To recap, when the Government reformed public service pension schemes in 2014 and 2015, they introduced protections for older members. In December 2018, the Court of Appeal ruled that younger members of the Judges' and Firefighters Pension schemes have been discriminated against as they were not afforded the same protections. In July 2019 the Government confirmed that there will be changes to all public sector schemes, including the LGPS, to remove this age discrimination

The Public Sector Pensions and Judicial Offices Bill has completed its passage through the House of Lords and the House of Commons. The Bill seeks to amend the Public Service Pensions Act 2013 by making provision to rectify the unlawful discrimination and provide for final salary benefits to be paid in respect of the remedy period. Several amendments have been made to the Bill in respect of the LGPS during the parliamentary process: specifically extending the eligibility criteria for members along with a provision relating to investments in light of foreign and defence policies. The amendments put forward in the House of Commons have now been considered and agreed in the House of Lords and the Bill received Royal Assent on 10 March 2022

The LGPS regulations are expected before the summer recess, paving the way for the remedy to be implemented in the LGPS with an effective date of 1 October 2023.

The proposals to address the discrimination have been set out in a ministerial statement on 13 May 2021. As such, DLUHC has issued a letter providing direction to Pension Funds to incorporate specific assumptions reflecting these proposals when valuing past service liabilities and setting employer contribution rates at the 2022 triennial valuation.

Officers of the Fund continue to work on collating and analysing data from employers and are engaging with its system provider in preparing to implement the proposed remedy.

Related web link(s)

<https://bills.parliament.uk/bills/3032>

<https://www.lgpsboard.org/index.php/structure-reform/mccloud-page>

<https://lgpslibrary.org/assets/bulletins/2022/222AppA.pdf>

Department for Levelling Up, Housing and Communities (DLUHC)**Fair Deal – Strengthening Pension Protection**

In January 2019, Ministry Housing Communities and Local Government (now superseded by DLUHC) launched a consultation that would strengthen the pensions protections that apply when an employee of an LGPS employer is compulsorily transferred to the employment of a service provider.

If the proposed amendments are introduced, the option for staff to be granted access to a Government Actuary's Department certified broadly comparable scheme will be removed.

DLUHC are currently considering the Responses received, with a consultation response expected in due course.

Related web link(s)

<https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection>

Department for Work and Pensions (DWP)

Pension Scams and New Restrictions on Transfers

In November 2021, following on from the Pension Schemes Act 2021, the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 were laid and came into effect from 30 November 2021. The regulations introduce further legal restrictions on a member's statutory right to transfer and further guidance and draft documentation has since been produced by TPR and the LGA to assist Funds with fulfilling their duties to ensure the requirements set out on the regulations are met.

Fund officers will be required to notify members seeking to transfer out that the transfer can only proceed if there are no due diligence red flags, or if the transfer is to a public service scheme, master trust or collective money purchase scheme. Prior to the new regulations coming into force the Fund complied with the Pensions Scams Industry Group code of best practice and is a signatory to the Pension Regulators campaign to combat pension scams and provided letters and leaflets to members highlighting the pitfalls of transferring out of secure pension arrangements.

Since coming into force, the administration team have been updating processes / templates based on the guidance available from TPR and LGA. Alongside this, the administration team is ensuring that processes for dealing with overseas and AVC transfers are also updated in light of latest LGA guidance, and the stronger nudge to guidance regulations effective from 1 June 2022, applicable to scheme members' AVC plans.

The extra requirements have increased the time taken to process transfer value cases for the administration team and hence there may be implications on KPIs and resource needed for other projects, which will need to be monitored going forwards.

Related web link(s)

<https://www.legislation.gov.uk/uksi/2021/1237/contents/made>

https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/16423_pensions_consumer_leaflet_screen.ashx

<https://www.plsa.co.uk/Portals/0/Documents/Policy-Documents/2021/Combating-Pension-Scams-A-Practitioner-Guide-0421.pdf>

<https://www.legislation.gov.uk/uksi/2022/30/contents/made>

Department for Work and Pensions (DWP)

The Pensions Dashboard

DWP launched a consultation on the draft Pensions Dashboards Regulations. The consultation closed on 13 March 2022. Several concerns have been raised by LGA with regard Funds having sufficient resource available to ensure Pensions Dashboard requirements are met, at the same time as having to implement the McCloud remedy. A number of other publications and announcements from the Pension Dashboard Programme have also been released since the latest update at the committee meeting of 20 September 2021, alongside an A-Z guide from the PLSA setting out 26 key issues that need to be resolved to ensure pension dashboards are a success.

The Fund's Senior Manager for Operations and Information Governance is managing the logistics to ensure the Fund is appropriately resourced to comply with statutory requirements of the new regulations once published in regards data quality, and the selection of an Integrated Service Provider.

The current proposed staging date for the LGPS is April 2024.

Related web link(s)

<https://www.gov.uk/government/consultations/pensions-dashboards-consultation-on-the-draft-pensions-dashboards-regulations-2022>

<https://www.pensionsdashboardsprogramme.org.uk/>

<https://www.plsa.co.uk/Press-Centre/Press-Releases/Article/PLSA-publishes-Pensions-Dashboards-A-Z-to-guide-industry-to-decisions-required-for-initial-dashboards->

Reforms to Public Sector Exit Payments

The Small Business, Enterprise and Employment Act 2015 introduced the concept of a 'public sector exit payment cap'. The legislation provides that exit payments paid to public sector employees should not exceed £95,000. The 2015 Act provided the overarching principles of how the exit cap was to operate, but the detail was to be prescribed in regulations expected to follow shortly after the enactment of the primary legislation.

After a period of delay the Treasury launched a consultation incorporating the 'Restriction of Public Sector Exit Payment Regulations 2019' which provided detail on how the exit cap should operate from an employer's perspective.

The provisions of the regulations confirmed the cap was to remain at £95,000 and included.

- Redundancy payments
- Any payment to offset an actuarial reduction to a pension arising by virtue of early retirement known as strain costs.
- Any other payment made in consequence of termination of employment.

The most significant impact for the LGPS was the inclusion was the strain on the fund costs. The cost of allowing unreduced access to pension benefits for members over 55 can exceed £95,000 for members on moderate earnings with long periods of membership.

Separate to the Exit Payment Regulations, DLUHC consulted on further reforms to the LGPS regulations that would accommodate the Exit Cap within the Scheme. As DLUHC's proposed changes were not implemented concurrently with the Exit Payment Regulations, there was legal uncertainty for both LGPS Administering Authorities and participating employers due to conflicting provisions within the legislation.

On 12 February 2021 however, the Exit Cap was disapplied after the Treasury issued the Exit Payment Cap Directions 2021. It is expected that the Treasury will again bring forward revised proposal in respect of public sector exits and Pension Committee and the Local Pension Board will be updated as further details emerge.

Related web link(s)

<https://www.lgpsboard.org/index.php/structure-reform/public-sector-exit-payments>

Scheme Advisory Board (SAB)

Good Governance in the Local Government Pensions Scheme

SAB is currently examining the effectiveness of current LGPS governance models with a focus on standards, consistency, representation, conflict management, clarity of role and costs.

SAB's work will likely result in new statutory guidance on Governance Compliance, with the likely focus on;

- Changes to the scheme's regulatory provisions on Governance Compliance Statements
- Revised statutory guidance on Governance Compliance Statements
- Independent assessment of Governance Compliance Statements
- Establishing a set of Key Performance Indicators (KPIs)

SAB have completed their report on Good Governance and submitted an Action Plan to DLUHC to take the recommendations of the project forward with statutory guidance expected later this year.

Fund Officers have commenced actions to undertake a gap analysis of the Fund's governance framework against the recommendations submitted to DLUHC – the intention is to identify areas that require strengthening and build required improvements into resource plans.

Related web link(s)

<https://www.lgpsboard.org/index.php/projects/good-governance>

The Pensions Regulator (tPR)

Single Code of Practice

The Pensions Regulator (tPR) has consulted on a single Code of Practice to cover all regulated pension schemes and its noteworthy there is a specific code for Public Service Pension Schemes. Whilst the new Code does not extend tPR's powers in the LGPS beyond its existing remit on governance and administration, there are some concerns over how the provisions of the Code fit with the LGPS. The Scheme Advisory Board is engaging with tPR on behalf of the LGPS.

The Regulator plans to carry a thorough review of the consultation responses and does not expect to lay the new code before Parliament prior to Spring 2022, with the Code expected to be in force from October 2022.

Related web link(s)

<https://www.thepensionsregulator.gov.uk/en/document-library/consultations/new-code-of-practice>