

Report of the Managing Director of West Yorkshire Pension Fund to the meeting of West Yorkshire Pension Fund Pension Board to be held on 20 March 2024

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Subject: Local Government Pension Scheme Regulations update

Summary statement:

This report updates the Pension Board on changes to the Local Government Pension Scheme (LGPS) 2014 and provides information on associated matters.

EQUALITY & DIVERSITY:

Not Applicable

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1 Background

- 1.1 The career average Local Government Pension Scheme (LGPS) was introduced on 1 April 2014.
- 1.2 Since the introduction of the new LGPS there have been a number of consultations on proposed changes to the LGPS, following which amendment regulations have been issued.
- 1.3 On 19 September 2021, the Government announced that the Ministry of Housing, Communities and Local Government (MHCLG) became the Department for Levelling Up, Housing and Communities (DLUHC).

2. Consultation: Local valuation cycle and the management of employer risk

- 2.1 On 8 May 2019 MHCLG issued a 12-week policy consultation called 'LGPS: Changes to the local valuation cycle and the management of employer risk'.
- 2.2 The consultation closed on 31 July 2019.
- 2.3 On 20 March 2020 the LGPS (Amendment) Regulations 2020 came into force. These regulations provide administering authorities with a discretion to determine the amount of exit credit which should be payable to an employer leaving the LGPS with a surplus.
- 2.4 The LGPS (Amendment) (No.2) Regulations 2020 came into effect from 23 September 2020. These regulations provide for new flexibilities that allow employer contributions to be reviewed between valuations, an exiting employer to enter into a Deferred Debt Agreement and an exit deficit to be paid in instalments. Following a consultation WYPF's Funding Strategy Statement has been updated to include policies on applying these new flexibilities.
- 2.5 DLUHC has yet to publish its response to the other matters contained in the consultation, which included changes to the LGPS Local Valuation Cycle, and employers required to offer LGPS membership.

3. Consultation on investment reforms

- 3.1 On 11 July 2023, DLUHC launched a consultation on LGPS investment reforms. The consultation was announced by the Chancellor in his Mansion House Speech.
- 3.2 The consultation seeks views on proposals in five areas and closed on 2 October 2023.
- 3.3 On 22 November 2023, as part of the Chancellor's Autumn Statement, a response to this consultation was published.
- 3.4 The Government will amend regulations to require funds to set objectives for investment consultants and correct the definition of investment in the 2016 investment regulations. Government will also require all LGPS funds in England

and Wales to pool listed assets by 31 March unless a value for money case can be made not to do so; and to monitor pooling progress over the current valuation period to 31 March 2025.

4. Other LGPS matters

4.1 McCloud remedy

On 16 July 2020 both HMT and MHCLG published consultations on the McCloud remedy. The MHCLG consultation closed on 8 October 2020. On 6 April 2023, DLUHC published their response to this consultation.

On 13 May 2021 Luke Hall, the Local Government Minister made a written statement on McCloud and the LGPS. The statement confirms the key changes to scheme regulations that will be made to remove age discrimination from the LGPS.

On 19 July 2021 HM Treasury formally introduced to Parliament the Public Service Pensions and Judicial Offices Bill, which makes provision to rectify the unlawful age discrimination identified by the McCloud judgment.

On 10 March 2022, the Public Service Pensions and Judicial Offices Act 2022 received Royal Assent. The main purpose of the Act is to give the relevant government departments the regulatory powers to resolve the discrimination identified in the McCloud judgment.

On 24 November 2022, HMRC launched a consultation on how pension tax will apply to members protected by the McCloud remedy. This consultation closed on 6 January 2023. The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 were laid before Parliament on 6 February 2023 and came into force on 6 April 2023. On 22 May 2023 HMRC launched a technical consultation on draft tax regulations which make further tax changes to the tax framework as a result of the public service pensions remedy. This consultation closed on 19 June 2023.

On 14 December 2022, HM Treasury (HMT) made the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022. They came into force on 19 December 2022 and apply to England, Northern Ireland, Scotland and Wales. The Directions set out how certain powers in the Public Service Pensions and Judicial Offices Act 2022 must be exercised. The Act gives relevant government departments powers to rectify McCloud discrimination.

The making of the Directions now allows relevant departments to start consulting on regulations exercising these powers. On 30 May 2023 DLUHC published a the ['McCloud' remedy in the LGPS consultation](#) to make the necessary changes to the LGPS Regulations 2013. This consultation closed on 30 June 2023.

On 8 September 2023 the outcome of the consultation was published and also the LGPS Amendment (No 3) Regulations 2023 were laid in Parliament and came into force on 1 October 2023. The regulations implement the McCloud remedy and amend the underpin rules to make sure they work correctly.

DLUHC has provided its initial policy on how authorities should prioritise this work and on 25 January 2024 issued new LGPS actuarial guidance, which provides additional information about how the McCloud remedy will affect certain calculations. The Local Government Pensions Committee has produced a factsheet for members and the first instalment of its McCloud Technical Guide for Administrators.

4.2 **Cost Control Mechanism**

Alongside publication of the McCloud consultation, HMT announced that the pause of the cost control mechanism would be lifted. The Scheme Advisory Board (SAB) also said it would be re-examining its results from its cost management process. It was also announced that there would be a review of the cost management process.

On 15 June 2021 the Government Actuary published his final report on his review of the cost control mechanism.

On 24 June 2021 HM Treasury launched consultations on proposed changes to the cost control mechanism and the SCAPE discount methodology.

On 4 October 2021, HMT published its response to the Public Service Pensions: cost control mechanism consultation.

SAB published the outcome of its cost management process for the 2016 valuation on 15 October 2021. SAB agreed to spread McCloud costs over a 10 year period (rather than the 4 years used by HMT) resulting in an outcome of 19.4% against a target cost of 19.5%. Despite the slight shortfall in cost SAB agreed not to recommend any scheme changes.

GAD has now published cost cap valuation reports for all 20 public service pension schemes and it has confirmed that no changes to member benefits or contributions are required as a result of these reports.

However, on 4 July 2022, the Fire Brigades Union and the British Medical Association were given permission to judicially review the UK Government's decision to include the McCloud remedy costs in the 2016 cost control valuations. The cases would be heard together. Though the case will look at the firefighters' and NHS pension schemes, the outcome may have an impact on the LGPS. This is because the first cost control valuations in the LGPS also included the McCloud remedy costs. The High Court Hearing began on 31 January 2023 and on 10 March 2023, it ruled that HM Treasury's decision to include the McCloud remedy in the cost cap mechanism was not unlawful. On 2 June 2023 the Court of Appeal granted unions permission to appeal against the High Court judgement.

4.3 **Scheme Advisory Board's Good Governance Report**

In 2019 SAB commissioned Hymans Robertson to prepare a report on the effectiveness of current LGPS governance models and to consider alternatives or enhancements to existing governance models which can strengthen the LGPS going forward. On 31 July 2019 SAB published this report. The phase two report from the Working Groups to SAB was published in November 2019.

When it met on the 8th February 2021 the SAB agreed that the Good Governance – Final Report should be published, and for the Chair to submit the Board’s Action Plan to the Local Government Minister for consideration. SAB has now published its action plan and SAB are now waiting to see how DLUHC responds to its proposals.

4.4 **SAB statement on surpluses**

On 20 December 2023 SAB issued a [Statement on Surpluses](#). The key points of the statement are:

- Funding levels across the scheme increased at the 2022 valuation and subsequent market movements have led to some funds experiencing further improvements
- LGPS regulations emphasise the desirability of stability in primary contributions for employers
- Funds should carefully consider their approach to employer-specific investment and funding strategies and take professional advice as needed
- Clear communication with employers about the impact (or lack of impact) of funding improvements is key – as well as the potential longevity of those improvements
- Funds should have a clear rationale and be able to explain their approach to setting secondary contributions and how employers’ covenant positions have been recognised
- Employer flexibilities regulations, statutory guidance and SAB are clear on the circumstances in which mid-cycle reviews of employer contributions are appropriate

5 **Other matters**

5.1 **Money and Pensions Service - Pensions dashboard update**

On 2 March 2023 The Department for Work and Pensions (DWP) announced plans for a "reset" of the Pensions Dashboards Programme with a further update on the plan for the delivery of pensions dashboards expected before summer recess.

The framework for dashboards will remain unchanged, although DWP will legislate to provide new connection deadlines and further information on the revised timeline will be made available following an agreement on PDP’s delivery plan.

On 8 June 2023 the Pensions Minister issued an updated statement setting out further details of the delay.

The DWP laid the Pensions Dashboards (Amendment) Regulations 2023 in Parliament on 19 July 2023. A revised staging timetable will be set out in guidance and all schemes in scope will need to connect by 31 October 2026. The staging timetable will indicate when schemes are scheduled to connect, based on their size and type.

On 2 February 2024, DWP published updated guidance on deferring dashboards connection. The updated guidance sets out the issues that trustees or managers of occupational pension schemes and their advisers should consider if they are applying

for a deferral of the connection deadline.

5.2 The Pensions Regulator Consultation on a new Code of Practice

On 17 March 2021 the Pensions Regulator (TPR) published a consultation on a new code of practice. This consultation focuses on the draft content for the first phase of its new code of practice. The new code consists of 51 shorter, topic-based modules and will replace 10 of its existing codes of practice, which mainly deal with the governance and administration of pension schemes.

TPR has published an interim response to the new code of practice consultation. Responses to the consultation included around 10,000 individual answers. TPR has issued the interim response to allow time to consider these responses and to incorporate code content arising from the Pension Schemes Act 2021 into the new code.

On 10 January 2024, TPR published its General Code of Practice, previously known as the Single Code of Practice, which is expected to come into force on 27 March 2024.

5.4 Abolition of Lifetime Allowance

The Government has introduced legislation to abolish the lifetime allowance from 6 April 2024. It has introduced two new lump sum limits to restrict the amount of tax free cash an individual can take over their lifetime.

Lump sum limit	Limit	Lump sums included
Lump sum allowance (LSA)	£268,275	Pension commencement lump sums (PCLS) and uncrystallised funds pension lump sums (UFPLS)
Lump sum and death benefit allowance (LSDBA)	£1,073,100	PCLS, UFPLS, serious ill health lump sums, authorised lump sum death benefits

A member will be able to apply for a transitional tax-free certificate if they opted to take a PCLS or UFPLS of less than 25 per cent when they took their benefits before 6 April 2024.

5.5 Annual revaluation, earnings and pensions increase

On 25 January 2024, HM Treasury (HMT) published a written ministerial statement confirming the rates of annual revaluation, earnings and pensions increase due to apply from April 2024. The statement confirms:

- public service pensions will increase on 8 April 2024 by 6.7%, in line with the Consumer Prices Index for the year up to September 2023

- revaluation of 6.7% plus any local addition will be used in April 2024 to revalue CARE accounts in public service pension schemes that use prices as the measure of revaluation
- revaluation of 7.7% will be used in April 2024 to revalue the CARE accounts in public service pension schemes that use earnings as the measure of revaluation

6. OTHER CONSIDERATIONS

None

7. FINANCIAL & RESOURCE APPRAISAL

None

8. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

9. LEGAL APPRAISAL

None

10. OTHER IMPLICATIONS

10.1 SUSTAINABILITY IMPLICATIONS

None.

10.2 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS

None

10.3 COMMUNITY SAFETY IMPLICATIONS

None

10.4 HUMAN RIGHTS ACT

None

10.5 TRADE UNION

None

10.6 WARD IMPLICATIONS

None

10.7 AREA COMMITTEE LOCALITY PLAN IMPLICATIONS

None

10.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

None.

10.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

11. NOT FOR PUBLICATION DOCUMENTS

None

12. OPTIONS

None

13. RECOMMENDATIONS

It is recommended that the Pension Board note the report.

14. APPENDICES

None

15. BACKGROUND DOCUMENTS

None