

# Report of the Director of West Yorkshire Pension Fund to the meeting of Joint Advisory Group to be held on 30 January 2020

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**Subject: Local Government Pension Scheme Regulations update**

## **Summary statement:**

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

## **Recommendation:**

It is recommended that Members note this report.

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**Portfolio:**

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**Overview & Scrutiny Area:**

## **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.

## **2 Consultation on Fair Deal – Strengthening pension protection**

- 2.1 On 10 January 2019 MHCLG issued a consultation on Fair Deal – Strengthening pension protection.
- 2.2 This consultation sought views on proposals to amend the rules of the LGPS that would require service providers to offer LGPS membership to individuals who have been compulsorily transferred from an LGPS employer. The proposals include a new approach to achieve this, the ‘deemed employer’, as an alternative to obtaining admission body status. The consultation also includes proposals that would automatically transfer assets and liabilities when employers in the Scheme are involved in a merger or takeover. The proposals are broadly welcomed.
- 2.3 The consultation closed on 4 April 2019 and we are still waiting for MHCLG to publish its response.

## **3 Consultation: Local valuation cycle and the management of employer risk**

- 3.1 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’. The consultation documents are available on the scheme consultations page of [www.lgpsregs.org](http://www.lgpsregs.org)
- 3.2 The consultation closed on 31 July 2019.
- 3.3 MHCLG have reported it had received around 280 responses and that it expected to publish its response in the autumn of 2019, however this has not been issued to date.

## **4.1 The Local Government Pension Scheme (Amendment) Regulations 2019**

The above regulations were laid before Parliament on 5 November 2019 and were effective from 31 December 2019. They amend the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 by introducing survivor benefits payable under the earlier regulations for opposite-sex civil partnerships. A person who is the surviving opposite-sex civil partner of a deceased member will be provided with a survivor pension calculated on the basis that the survivor is a widow or widower, depending on their gender.

## **5 Other LGPS matters**

### **5.1 Actuarial Factors**

MHCLG has issued new actuarial factors for the purchase of Additional Survivor Benefits.

### **5.2 McCloud and valuation guidance**

It was reported on 21 December 2018 that the Court of Appeal held that transitional protections that protected older judges and firefighters from the public sector pension scheme changes in 2015, were unlawfully discriminatory. This case is known as the 'McCloud case'. Following the judgment, on 30 January 2019 the Government published a written statement that paused the HMT cost management process for public service pension schemes, pending the outcome of the application to appeal the McCloud case to the Supreme Court. On 8 February 2019, LGPS England & Wales Scheme Advisory Board (E&W SAB) confirmed it had no option but to pause its own cost management process pending the outcome of McCloud.

As a result administering authorities were asked to inform SAB about their preference concerning the approach to the 2019 valuation. Specifically, whether they would prefer to receive guidance from SAB on how McCloud/cost management should be taken into account in the 2019 valuation, or if they would prefer to determine their own approach, taking advice from their actuarial adviser.

The majority of funds expressed a preference to receive central guidance which was issued on 14 May 2019.

CIPFA have also provided a separate note on accounting for McCloud / cost management.

The SAB advice note sets out their proposed approach in five key points and administering authorities are encouraged to discuss this approach, together with the CIPFA guidance note, with their actuaries.

Earlier than expected, the Supreme Court, on 27 June 2019, denied the Government's request for an appeal in the McCloud case in respect of age discrimination and pension protection.

Further information on how any inequalities in the LGPS will be addressed is awaited.

### **5.3 Consultation on restricting exit payments**

On 10 April 2019 HM Treasury opened a 12 week consultation called 'Restricting exit payments in the public sector: consultation on implementation of regulations'.

The consultation documents can be viewed on the [non-scheme consultation](http://www.lgpsregs.org) page of [www.lgpsregs.org](http://www.lgpsregs.org). The consultation closed on 3 July 2019.

5.4 HMT have reported it received approximately 600 responses, and said that it was hoping to publish its response in the autumn of 2019. It is understood that HMT are to introduce the cap no sooner than 1 April 2020.

#### 5.5 **Scheme Advisory Board's Good Governance Report**

Early 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 LGPS going forward.

On 31 July 2019 SAB published this report, which can be viewed at <http://lgpsboard.org/images/PDF/GGreport.pdf>.

Hymans Robertson's project team will now be assisting SAB in taking forward the next stage of the project. Two working groups will be established to:

- define what is meant by good governance outcomes and provide the accompanying guidance, and
- focus on options for the independent assessment of outcomes and the mechanisms to improve the delivery of those outcomes.

#### 5.6 **GMP Indexation**

As a result of the abolition of contracting-out in 2016 HMT issued a statement on an interim solution regarding the indexation of Guaranteed Minimum Pensions (GMP). This interim solution applied to members who reached their State Pension Age between 6 April 2016 and 5 December 2018. In December 2018 this interim solution was extended to member's who reach their State Pension Age before 5 April 2021.

A further consultation is expected before 2021 to confirm the Government's long-term indexation, which it claims will also meet the requirements of GMP equalisation.

#### 5.7 **Third Tier employers**

In June 2018 Aon presented members of SAB with a summary of the final draft of its report to review the current issues in relation to third tier employers participating in the LGPS.

The report did not make any recommendations, instead, it outlined a range of issues raised by stakeholders and how they envisage these concerns being resolved. A working group has been set up by SAB and it will be making recommendations on back of the initial report in due course.

## **6.0 Other Pension Matters**

### **6.1 The Pensions Ombudsman**

On 19 December 2018 the Government published a consultation seeking views on proposals for a new function at the Pensions Ombudsman (TPO) for the earlier resolution of disputes prior to a determination; allowing employers to make complaints or refer disputes to TPO on behalf of themselves; and associated signposting provisions.

On 8 August 2019 the government published its response to the consultation. On the whole, responders were supportive of the government's proposals. Going forward, the government will:

- collaborate with HMT and the FCA to ensure the services work to support the best interests of parties that will use those services, and
- bring forward legislation to provide a framework for the proposals

### **6.2 Pension Schemes Bill 2019**

On 14 October 2019 the Pension Schemes Bill was confirmed in the Queen's Speech and, following the General Election, was re-introduced on 19 December 2019.

The Bill will introduce:

- A framework for "collective money purchase schemes";
- Provisions to enable pension dashboards;
- New criminal offences for failure to comply with a contribution notice, avoidance of an employer debt and conduct risking accrued scheme benefits;
- A new requirement for trustees of occupational defined benefit schemes to determine (with the agreement of the employer) a strategy for ensuring that pensions and other benefits under the scheme can be provided over the long term; and
- Restrictions on the right to a statutory transfer, unless prescribed conditions are met.

### **6.3 September 2019 rate of CPI**

On 16 October 2019, the Office for National Statistics announced that the Consumer Prices Index (CPI) rate of inflation for September 2019 was 1.7%.

Government policy in recent years has been to base both pensions increase under the Pensions (Increase) Act 1971 and revaluation of pension accounts under section 9 of the Public Service Pensions Act 2013 on the rate of CPI for September of the previous year. Confirmation is awaited from the Government that the revaluation of pension accounts and the pensions increase to apply to deferred LGPS pensions and LGPS pensions in payment in April 2019 will be 1.7%.

## 7.0 **Recommendation**

It is recommended that the Joint Advisory Group note the report.