

# Report of the Director of West Yorkshire Pension Fund to the meeting of West Yorkshire Pension Fund Pension Board to be held on 22 September 2020

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

## **Summary statement:**

This report updates the West Yorkshire Pension Fund Board 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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Rodney Barton  
Director

**Portfolio:**

Report Contact: Tracy Weaver  
Phone: (01274) 433571  
E-mail: [tracy.weaver@wypf.org.uk](mailto:tracy.weaver@wypf.org.uk)

**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 Ministry of Housing, Communities and Local Government (MHCLG) issued a consultation on Fair Deal – Strengthening pension protection.
- 2.2 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’.
- 3.2 The consultation closed on 31 July 2019.
- 3.3 Included in this consultation were issues that had arisen following changes made to the LGPS Regulations to allow a surplus to be refunded to an exiting employer. To address these issues the Local Government Pension Scheme (Amendment) Regulations 2020 were laid before Parliament on 27 February 2020 and came into force on 20 March 2020 but have effect from 14 May 2018.
- 3.4 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.
- 3.5 On 26 August 2020 a second partial response was published. The response confirms that the LGPS 2013 Regulations will be amended to allow greater flexibility on employer exit payments and the ability to review employer contributions between valuations.
- 3.6 The LGPS (Amendment) (No.2) Regulations 2020 provide for the changes and were laid in Parliament on 27 August 2020 and come into effect from 23 September 2020.
- 3.7 MHCLG are still 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.

## **4 Other LGPS matters**

### **4.1 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 (SAB) confirmed it had no option but to pause its own cost management process pending the outcome of McCloud.

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

SAB set up two working groups to work with MHCLG in developing and implementing the LGPS McCloud remedy.

On 16 July 2020 both HMT and MHCLG published consultations on the McCloud remedy. The consultations can be viewed at:

<https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

and

<https://www.gov.uk/government/consultations/local-government-pension-scheme-amendments-to-the-statutory-underpin>

The MHCLG consultation proposes that a two-part revised underpin will apply to all members who meet the criteria for protection regardless of their age in 2012. The revised underpin will also apply to early leavers and will take account of early/late retirement adjustments. Membership up to earlier of leaving, 2008 NPA or 31<sup>st</sup> March 2022 will be included in the calculation of the revised underpin.

The consultation closes on 8 October 2020 and a response will be prepared in due course.

Alongside publication of the McCloud consultation, HMT announced that the pause of the cost control mechanism will be lifted and it is stated that the process will be completed "next year". The SAB is currently considering its options regarding the pause of its cost management process.

### **4.2 Consultation on restricting exit payments**

On 10 April 2019 HM Treasury (HMT) 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](#)

page of [www.lgpsregs.org](http://www.lgpsregs.org) (see 2019 drop down menu). The consultation closed on 3 July 2019.

On 21 July 2020 the Government published its response to this consultation, in which it confirmed its intention to proceed with this. Draft Regulations have now been published and will be followed by updated guidance and HMT Directions.

MHCLG published a consultation on 7 September 2020 outlining its proposed options that will be available to Local Government employees. The consultation can be viewed at:

<https://www.gov.uk/government/consultations/reforming-local-government-exit-pay>

In relation to LGPS members MHCLG are proposing that:

- Employers will be able to pay some of the early retirement strain cost by reducing any discretionary redundancy payment.
- Members will be able to take a actuarially reduced pension (using standard early retirement factors).
- Members will be able to elect for deferred benefits
- A Standard approach will be needed to calculate early retirement strain cost calculations.

The consultation closes on 9 November 2020 and a response will be prepared in due course.

It is intended that the cap will be in force by the end of 2020.

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

Last year 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>.

The phase two report from the Working Groups to SAB was published in November, which can be viewed at [http://www.lgpsboard.org/images/PDF/HymansRobertson\\_GoodgovernanceintheLGPS\\_Phase-II\\_November2019.pdf](http://www.lgpsboard.org/images/PDF/HymansRobertson_GoodgovernanceintheLGPS_Phase-II_November2019.pdf)

SAB have now approved resources for phase three of this project. This phase will determine:

- The outcome measures it will use
- The format of this work, and
- A timetable for implementation.

#### 4.4 **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 but work has been put on hold due to competing priorities, in particular, work on the Board's cost cap arrangement.

### 5 **Other matters**

#### 5.1 **Pensions Schemes Bill reintroduced**

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

The Bill was introduced in the House of Lords and the second reading was on 28 January 2020 and was then moved to committee stage. Line by line examination of the Bill took place during the final day of committee stage on 4 March 2020. The report stage was completed on 30 June 2020 and the Bill completed its House of Lords stages on 15 July 2020.

The Bill was presented to the House of Commons on 16 July 2020.

#### 5.2 **Money and Pensions Service - Pensions dashboard update**

On 8 April 2020, the Money and Pensions Service (MaPS) published Pensions Dashboard Programme – Progress Update Report. The MaPS intends to release a progress report every six months. The first report sets out:

- the pensions dashboards goals and some of the challenges associated with delivery
- that Primary legislation will provide certainty about the requirements placed on schemes and the timescales for compliance
- the importance of secure and accurate identity verification
- the challenge of specifying a consistent set of data standards so that information from different schemes can be displayed consistently
- the need to identify when in the staged on-boarding process the dashboards should be made available to the public
- the focus of the Pensions Dashboards Programme over the coming months.

The MaPs published two further papers in April 2020:

- Pensions Dashboards Data Definitions - Working Paper lists the set of data items that could be included in the dashboards data standards. This covers both data items that are needed to find a member's pensions and those that would be useful for users to see on a dashboard. The list will be developed further in response to user and sector research.
- Options for achieving early breadth of coverage are considered in Pensions Dashboards Data Scope - Working Paper. This paper confirms that initial dashboards will only include information that is already available on annual statements. This should enable the maximum number of pension schemes to onboard at an early stage. More information is likely to be included in pensions dashboards in the future.

On 6 July 2020 a call for input was published on data standards required for pension dashboards, which will set out the data which pension providers and schemes will be required to show their customers and members via dashboards and the format in which the data will have to be input.

### 5.3 **The Pensions Regulator's Corporate Plan 2020/21**

On 29 June 2020 the Pensions Regulator published its Corporate Plan. Its priorities for the year ahead are:

1. Support workplace pensions schemes to deliver benefits through significant change driven by the global pandemic.
2. Protect pension savers across all scheme types through proactive and targeted regulatory interventions.
3. Provide clarity to, and promote the high standards of trusteeship, governance and administration we expect.
4. Intervene where appropriate so that DB schemes achieve their long-term funding strategy and deliver on pension promises
5. Ensure jobholders have an opportunity to save into a qualifying workplace pension through automatic enrolment
6. Continue to build a regulator capable of meeting future challenges.

### 6. **Recommendation**

It is recommended that the Local Pension Board note the report.