

Report of the Director of West Yorkshire Pension Fund to the meeting of West Yorkshire Pension Fund Pension Board to be held on 14 September 2021

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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.

Recommendation:

It is recommended that Members note this report.

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Portfolio:

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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.

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 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.
- 3.4 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.
- 3.5 MHCLG 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.

4 Other LGPS matters

- 4.1 McCloud and valuation guidance

It was reported on 21 December 2018 that the Court of Appeal determined the 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.

The 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 MHCLG consultation closed on 8 October 2020.

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, H M 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.

For the LGPS, Chapter 3 of Part 1 confirms which members will be in scope and what service is 'remediable'. Enabling legislation will allow for scheme regulations to be changed to implement the McCloud remedy.

The Bill is now awaiting its second reading in the House of Lords on 7 September 2021.

Alongside publication of the McCloud consultation, HMT announced that the pause of the cost control mechanism will be lifted and the process will be completed "next year". The SAB will also be re-examining its results from its cost management process.

On 15 June 2021 the Government Actuary published his final report on his review of the cost control mechanism. The report splits the review into a two-stage framework. Firstly, what can be done to the mechanism itself, and secondly, how the results can be validated. GAD explores some alternative approaches to the mechanism before suggesting that the cost cap mechanism is still good idea, assuming some improvements are made to it. Among the suggestions is that the corridor used to measure the cost of any changes is increased to +/-3%, apparently to allow for the volatility of the mechanism. For the validation stage, the report proposes that an affordability check is included and an additional layer of qualitative review is incorporated, presumably to act as a further level of insurance against unintended conclusions.

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

4.2 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 could 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 MHCLG responds to its proposals.

4.3 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 Money and Pensions Service - Pensions dashboard update

On 27 May 2021, the PDP launched a Call for input on staging. The purpose of the call for input is to gather feedback and insight from pension schemes that will inform Government policy on staging. The PDP is recommending that all public service pension schemes should be onboarded in the initial wave – a two-year period starting from April 2023. The call for input closed on 9 July 2021.

5.2 Pension Schemes Act 2021

Following completion of passage through Parliament of the Pensions Bill, on 11 February 2021 the Pension Schemes Act 2021 became law. However, the majority of provisions are not currently in force and regulations are needed to bring them into force and to provide detail about how they will work.

On 14 May 2021, the DWP launched a consultation on pension scams: empowering trustees and protecting members. The consultation proposes new requirements on trustees and scheme managers before a pension transfer can be completed.

5.3 Governance and Administration Survey 2020–21 results

TPR published the results from the Public Service Pension Scheme Governance and Administration Survey 2020-21 on 1 July 2021.

The survey found little change since 2019 for the key processes that TPR monitors as indicators of performance. Two-thirds of LGPS administering authorities who responded to the survey had all six processes in place. The six key processes are:

- have a documented policy to manage board members' conflicts of interest
- have access to the knowledge, understanding and skills needed to properly run the scheme
- have documented procedures for assessing and managing risk
- have processes to monitor records for accuracy and completeness
- have a process for resolving contribution payment issues
- have procedures to identify, assess and report breaches of the law.

The results also show improvements in risk management processes, cyber controls and the proportion of members receiving their annual benefit statement on time. Governance has generally stood up well given the unique challenges the last year has presented.

6 **Recommendation**

It is recommended that the Pension Board note the report.