

Report of the Director of West Yorkshire Pension Fund to the meeting of West Yorkshire Pension Fund Pension Board to be held on 22 March 2022

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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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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 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 DLUHC 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 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.

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 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.

DLUHC are expected to issue a full response to the consultation and to publish draft regulations in the spring.

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 has completed its passage through the House of Lords and is now at the 3rd reading stage in the House of Commons.

4.2 Cost Control Mechanism

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 Scheme Advisory Board (SAB) will also 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. The report splits the review into a two-stage framework.

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. The Government's response confirms it will proceed with all three proposed reforms. The Government is aiming to implement all three proposals in time for the 2022 valuations.

On 7 October 2021, HMT published the Public Service Pensions (Valuation and Employer Cost Cap) (Amendment) Directions 2021.

SAB published the outcome of its cost management process for the 2016 valuation on 15 October 2021.

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 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.

4.5 Section 13 Report

On 16 December 2021, DLUHC published GAD's report on the 2019 fund valuations. The report is required by section 13 of the Public Service Pensions Act 2013.

The Government Actuary's Department (GAD) found the scheme's financial position had strengthened since its previous review in 2016, on the back of buoyant investment returns between 2016 and 2019. Also, LGPS funds have made progress against the 2016 review recommendations. The main findings are:

- Compliance - fund valuations were compliant with relevant regulations.
- Consistency - funds implemented GAD's 2016 recommendation to provide a standard dashboard to aid readers when comparing of results for different funds. However, differences in methodology and assumptions do mean that a like for like comparison is not straightforward.
- Solvency - the size of pension funds has grown considerably more than local authority budgets since 2016, so there's an increased risk of strain on employers from any future funding changes.
- Long-term cost efficiency - where relevant, funds had generally acted on GAD's 2016 recommendations on operating plans to close any deficit funding gaps. GAD highlighted four funds they are concerned about the level or trajectory of employer contributions and the implications for taxpayers.

GAD's recommendations for funds or SAB to consider during the local valuations in 2022 include:

- improve consistency in the approach to assessing emerging and existing key issues, such as recent legal judgements and setting employer contributions for new academies
- ensuring deficit recovery plans can be demonstrated to be a continuation of the previous plan

- continue with ongoing improvements on transparency through an expanded valuation dashboard
- review the governance around asset transfer arrangements from local authorities.

4.6 **Levelling Up White Paper**

On 2nd February 2022 the government published the **Levelling Up whitepaper** which includes references to LGPS funds having plans for up to 5% of assets to be allocated to projects which support local areas. The SAB understand that in this context local refers to UK rather than local to a particular fund and that there will be no mandate beyond the requirement to have a plan. Further details will emerge over the period up to an expected summer consultation which SAB understand will also include the outstanding climate risk and reporting regulations and the pooling guidance.

Under its pooling commitments via the NLGPS WYPF has been investing in UK infrastructure, with over 2% of the whole Fund already invested.

5 **Other matters**

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

On 27 May 2021, the Pensions Dashboard Programme (PDP) launched a call for input on staging. The purpose of the call for input was to gather feedback and insight from pension schemes that will inform Government policy on staging. 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.

PDP received just over 60 responses to the call for input from a variety of stakeholders. These will be used to feed into further policy development of pension dashboards.

Chris Curry, Principal of PDP, announced in October 2021 that draft regulations on pensions dashboards are expected to be published in the near future

On 7 December 2021, the Pensions Administration Standards Association published initial guidance on the choice of data matching convention schemes must make ahead of their compliance with the upcoming pensions dashboards legislation. The guidance details how every pension scheme must choose how they wish to compare 'find requests' from dashboard users against the member records they hold. Choice of matching will depend on the accuracy of the personal data held by Schemes, across all of their deferred and active member records.

On 15 December 2021, PDP announced that it has selected three potential dashboard providers to take part in initial development of the dashboards ecosystem: Aviva, Bud and Moneyhub. In addition to the Money and Pensions Service's non-commercial dashboard, the PDP will work with these companies to support the early work on design standards and technology.

On 16 December 2021, the Pensions and Lifetime Savings Association published an A to Z industry guide containing decisions that are required to make the initial pensions dashboards a success. The guide is intended to help the people engaged with preparing for pensions dashboards understand the key issues to be assessed and resolved.

On 31 January 2022 DWP published a consultation on the draft Pensions Dashboards Regulations 2022. The purpose of the consultation is to seek views on a range of policy questions relating to the creation on pensions Dashboards. The consultation closes on 13 March 2022.

Following the publication of the consultation on the draft Pensions Dashboards Regulations 2022, the PDP has published information about the scope of its standards and how it will go about setting them, with some indicative examples of what the standards could contain. The publications include:

- data usage guide;
- design standards scope;
- reporting standards scope;
- technical standards; and
- a guide to the code of connection, which will include security, service and operational standards.

5.3 The Pensions Regulator Consultation on a new Code of Practice

On 17 March 2021 the Pensions Regulator (TPR) published a consultation 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.

TPR does not have a firm publication date for the new code, but it is unlikely to become effective before summer 2022.

5.4 Finance (No.2) Bill 2021/22

On 2 November 2021, HM Treasury (HMT) formally introduced the Finance (No.2) Bill 2021/22 to Parliament. The Bill includes a number of provisions that may affect the administration of the LGPS.

Clause 9: Changes to annual allowance scheme pays deadlines

This clause changes deadlines associated with mandatory scheme pays. The period within which some members must give notice of their election will be extended. The deadline for administrators to provide information about annual allowance tax charges will also change.

Clause 10: Increase in normal minimum pension age

This clause introduces an increase in the normal minimum pension age (NMPA) to age 57 from 6 April 2028.

In relation to clause 9, on 18 February 2022 HMRC published a technical consultation seeking views on the draft Registered Pension Schemes (Miscellaneous Amendments) Regulations 2022. The legislation is intended to take effect from 6 April 2022. The consultation closes on 15 March 2022.

5.5 Second Review of State Pension Age

DWP launched the second review of the State Pension Age on 14 December 2021. The review will consider if the State Pension Age (SPA) rules are still appropriate based on the latest life expectancy data and other evidence. Two independent reports will be commissioned as part of the review:

- the Government Actuary will provide a report assessing the appropriateness of SPA considering the latest life expectancy projections
- Baroness Neville-Rolfe will provide a report on other relevant factors including recent trends in life expectancy and other metrics.

On 7 January 2022, DWP published the terms of reference for the independent report to be led by Baroness Neville-Rolfe.

5.6 DWP responds to nudge consultation

DWP responded to the consultation 'Stronger Nudge to pensions guidance' on 17 January 2022. On the same day, the DWP laid before Parliament the Occupational and Personal Pension Schemes (Disclosure of Information) (Requirements to Refer Members to Guidance etc) (Amendment) Regulations 2022. The regulations come into force on 1 June 2022.

The regulations will require administrators of occupational pension schemes, including the LGPS, to give to their members, in certain cases, a stronger nudge to Pension Wise guidance. Administering authorities will need to give the stronger nudge where it receives an application, or a communication in relation to an application, from a member to start receiving their additional voluntary contributions (AVCs) on or after 1 June 2022. The regulations also apply to applications from members aged 50 or over to transfer out their AVCs.

Giving the stronger nudge means that administering authorities must, as part of the application process:

- offer to book a Pension Wise appointment on behalf of the member
- where the member accepts, take reasonable steps to book the appointment
- where the member does not accept the offer, or where the authority is unable to book the appointment despite having taken reasonable steps, give details to the member of how to book an appointment themselves
- explain to the member that the authority cannot proceed with the application unless the member has attended the appointment and confirmed this to the authority, or has opted out of attending an appointment, and
- explain to the member that they can only opt out in respect of the application by giving (either verbally or in writing) a notification to the administering authority.

The Pensions Regulator, in its 'Why it's time for trustees to Pension Wise up' blog, confirmed that it will give guidance before 1 June 2022 to help schemes prepare for the changes.

5.7 Government confirms 2022 revaluation and publishes PI multiplier tables

On 20 January 2022, the Government made a written statement on indexation and revaluation in public service pension schemes and published the 2022 pensions increase (PI) multiplier tables.

The statement confirms that public service pensions will increase on 1 April 2022 by 3.1 per cent, except for pensions that have been in payment for less than a year, which will receive a pro-rata increase. The statement also confirms that active LGPS CARE accounts will increase on 1 April 2022 by 3.1 per cent.

6 Recommendation

It is recommended that the Pension Board note the report.