



**Pension Board**  
13 March 2019

**Report from the Chief Finance Officer**

## **LGPS Regulations Update**

<b>Wards Affected:</b>	N/A
<b>Key or Non-Key Decision:</b>	N/A
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	3
<b>Background Papers:</b>	Appendix 2 - LGPC Bulletin 180 – January 2019 Appendix 3 - LGPC Bulletin 181 – February 2019
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Ravinder Jassar, Head of Finance Anna McCormack, Senior Pensions Officer

### **1.0 Purpose of the Report**

- 1.1 This report updates the board on recent changes to the Local Government Pension Scheme regulations and other key developments from the Local Government Association's Pensions Committee.

### **2.0 Recommendation(s)**

- 2.1 The board is asked to note the report.

### **3.0 Cost Management – McCloud Case**

- 3.1 On 21 December 2018 it was reported 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'.
- 3.2 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. This was supplemented by the publication of the Public Service Pensions (Valuations and Employer Cost Cap) (Amendment and Savings) Directions 2019, on 15 February 2019.

- 3.3 On 8 February 2019, Scheme Advisory Board (SAB) confirmed it had no option but to pause its own cost management process pending the outcome of the McCloud case. As a result there are currently no changes to benefits planned in respect of the LGPS cost management process from 1 April 2019. This situation will be reviewed once McCloud is resolved which is not expected for some months.
- 3.4 The cost management page of the SAB website has been updated with all of the background information to the above, including the Q&A emailed to administering authorities on 15 February 2019. The Q&A is in HTML format to enable it to be easily updated as events move forward. It sets out potential timescales and possible outcomes of the McCloud case, and its impact on the cost cap process. The current version of the page on dispatch of this report is attached in Appendix 1.
- 3.5 The Contribution rates for 2019/20 are outlined below:

Contribution bandings 2019/20			
		main scheme	50/50 section
up to	£ 14,400.00	5.50%	2.75%
£ 14,401.00	£ 22,500.00	5.80%	2.90%
£ 22,501.00	£ 36,500.00	6.50%	3.25%
£ 36,501.00	£ 46,200.00	6.80%	3.40%
£ 46,201.00	£ 64,600.00	8.50%	4.25%
£ 64,601.00	£ 91,500.00	9.90%	4.95%
£ 91,501.00	£ 107,700.00	10.50%	5.25%
£ 107,701.00	£ 161,500.00	11.40%	5.70%
£ 161,501.00	or more	12.50%	6.25%

- 3.6 Contribution rates for Brent will remain the same as in the previous financial year, with the only change being the inflation uplift applied to each band.

#### 4.0 New Regulations – January 2019

- 4.1 On 4 October 2018, the Ministry of Housing, Communities and Local Government (MHCLG) opened a consultation on proposed amendments to the LGPS. The consultation closed on 29 November 2018. A copy of all the consultation papers (including the Government response published in December 2018) can be found under the scheme consultations page of [www.lgpsregs.org](http://www.lgpsregs.org). On 18 December 2018, the LGPS (Miscellaneous Amendment) 2018 Regulations were laid before parliament.
- 4.2 The Scheme consultations can be accessed at the following link:  
<http://www.lgpsregs.org/schemeregs/consultations.php>
- 4.3 The regulations come into force on 10 January 2019 and amend previous regulations by:
- introducing a general power for the Secretary of State to issue statutory guidance;

- making a technical amendment to allow early access to benefits between the age of 55 and NRD (as defined by the LGPS Regulations 19953), for deferred members who left before 1 April 1998;
- addressing the **Walker v Innospec** judgment by providing that survivors of registered civil partners or same sex marriages are provided with benefits that replicate those provided to widows.

## **5.0 Fair Deal Policy Consultation**

- 5.1 The Government's 'Fair Deal' policy was introduced in 1999 and sets out how pensions issues should be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services. Under the original Fair Deal guidance, transferred staff had to be given access to a scheme certified as being 'broadly comparable' to their previous public service pension scheme.
- 5.2 The Government announced in July 2012 that the Fair Deal policy would be reformed. Under the 'new' Fair Deal policy, staff transferring from the public sector would have continued access to their public service pension scheme rather than being offered a broadly comparable private pension scheme, as was previously the case. This strengthens existing protections significantly. Protected employees will have increased confidence and security in knowing that, despite their transfer, they will retain a right to all the benefits that come with membership of the LGPS, not least that it is a statutory scheme with benefits set out in law. Moreover, so long as the protected employees remain wholly or mainly employed on the delivery of the service or function transferred, they will continue to have that protection even if the service is subsequently sub-contracted or transferred out again.
- 5.3 A consultation took place in 2016 with mixed responses. Whilst many respondents were supportive of the aims in providing transferred staff with continued access to the LGPS, there were a variety of concerns on the detail of the proposals. More detail on the issues raised are contained in the Government's April 2018 response.
- 5.4 MHCLG have taken a number of steps to address the concerns raised during the first consultation and have invited responses for a further consultation by 4 April 2019. The consultation can be accessed at the following link:  
<https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection>

## **6.0 Good Governance in the LGPS**

- 6.1 The LGPS SAB has launched a review which will consider options for enhancing LGPS governance arrangements to ensure that the Scheme is ready for the challenges ahead with regards to efficient management and administration of the pensions function. They have asked Hymans Robertson to research the key issues impacting on the continued effectiveness of the scheme's governance now and in the future.
- 6.2 The duties of an administering authority are set out in regulation however it is not clear if a specific 'fiduciary duty' exists in relation to a pension fund which

would clearly define in whose interests decisions should be made. This gap could lead to potential conflicts of interests between the administering authority and the pension fund.

- 6.3 Through the review process the SAB will be seeking the views of as many stakeholders as possible. Scheme stakeholders will be invited to complete a short online questionnaire which asks for views on potential conflicts, the effectiveness of current LGPS governance arrangements in managing such conflicts and suggestions for improvement.

## **7.0 Financial Implications**

- 7.1 There are no specific financial implications associated with noting this report.

## **8.0 Legal Implications**

- 8.1 None arising directly from this report

## **9.0 Equality Implications**

- 9.1 None arising directly from this report

## **10.0 Consultation with Ward Members and Stakeholders**

- 10.1 Not applicable for this report.

## **11.0 Human Resources/Property Implications (if appropriate)**

- 11.1 None arising directly from this report

**Report sign off:**

**Conrad Hall, Chief Finance Officer**