

LGPC Bulletin 211 – June 2021

Local Government Pensions Committee (LGPC)
Secretary, Lorraine Bennett

Foreword

This bulletin contains important updates for administering authorities, scheme employers and software suppliers. It also provides a general update for all LGPS stakeholders.

This bulletin contains important articles on:

- [High Court judgment on exit credits](#)
- [Making ABSs for active members available on a website](#)
- [MaPS MoneyHelper goes live](#)

which need action by certain stakeholders.

If you have any comments or articles for future bulletins, please contact query.lgps@local.gov.uk.

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LGPS England & Wales Scheme Advisory Board (SAB)

Response to consultation on new code of practice

On 4 June 2021, the Board’s secretariat, in consultation with the Investment, Governance and Engagement committee, responded to TPR’s consultation on a new code of practice on behalf of the SAB.

You can access the response on [the responses to consultations](#) page of SAB’s website.

LGPS England & Wales

2021 guides and factsheets published

On 2 June 2021, Rachel Abbey emailed administering authorities letting them know that we have published 2021 versions of various guides and factsheets.

You can find the latest versions of the following publications on the [Administrator guides and documents](#) page of www.lgpsregs.org:

- annual allowance factsheet for members version 1.8
- a member’s guide to AVCs version 2.3
- update for councillors in England (April 2014) version 2.1
- councillors full guide version 2.1
- introductory leaflet for councillors in Wales version 1.8
- employees brief guide version 2.2
- retirement planning guide version 1.2
- lifetime allowance factsheet for members version 1.8.

Useful tips about the Administrator guides and documents page:

- You can easily find the latest publications by sorting the table by publication date. Tap the Publication date column header twice to sort from newest to oldest.
- You can find old versions of documents by using the Filters on the right hand side of the page. Choose ‘All’ or ‘Old’ under status to find previous versions.

High Court judgment on exit credits

On 27 May 2021, the High Court handed down its judgment in the case of EMS & Amey v Secretary of State for MHCLG. The case relates to the non-payment of a £6.5 million exit credit.

The Court found in favour of MHCLG and upheld the retrospective effect of the LGPS (Amendment) Regulations 2020. The judge noted that 'there were compelling public interest reasons for making the regulations retroactive', and that 'the aim of avoiding windfall payments and protecting the pension funds was legitimate'.

Background

From 14 May 2018, the LGPS (Amendment) Regulations 2018 introduced a requirement on administering authorities to pay any surplus (exit credit) to exiting employers.

EMS exited the Scheme in June 2018. The surplus at leaving was £6.5 million. However, the administering authority had concerns about paying this amount to EMS because a 'pass-through arrangement' had been in place.

MHCLG made the LGPS (Amendment) Regulations 2020, which came into force on 20 March 2020. The regulations amended the exit credit rules, requiring administering authorities to decide the amount of an exit credit after taking into account relevant factors. The regulations do not apply to credits paid before 20 March 2020. Therefore, as the administering authority in this case had yet to pay EMS the exit credit, the new rules applied to it.

The claimants brought a judicial review against the 2020 Regulations applying retrospectively.

Clarification on the exit credit discretion

The claimants also raised concern about how administering authorities are applying the new rules; in particular, suggesting that some administering authorities are excluding the possibility of paying an exit credit because a pass-through arrangement is in place. All parties accepted that this is incorrect, and the regulations do not give primacy to any single factor. In paragraph 161, the Court clarified the parameters of the discretion to award exit credits:

i) The essential obligation of the decision maker is to make a rational and fair application of regulation 64(2ZAB) and (2ZC), giving the words their clear meaning.

ii) Paragraph 7.2 of the explanatory memorandum could give the impression that no exit credit can or should be paid in the circumstances described in

that paragraph. That impression would be misleading, because the regulation requires a multi-factorial discretion to be applied, having regard to all relevant facts of which the decision maker is made aware. The regulation does not make any single factor conclusive.

iii) Regard may always be had to the fact that, by the legislation as amended by both the 2018 Regulations and the 2020 Regulations, the Defendant provided for the possibility of exit credits.

iv) Regard also may always be had to the fact that, by the legislation as amended by the 2020 Regulations, a multi-factorial discretion was provided to replace, and no doubt was thought to be fairer than, an absolute entitlement.

v) Regard must be had to the relevant factors stipulated at paragraphs (a) to (c) of regulation 64(2ZC).

vi) The regulation does not give primacy to any single factor. The weight given to any relevant factors therefore will always depend on the facts of the individual case.”

You can read the [full judgment](#) online.

Action for administering authorities

Check the wording in your funding strategy statement to ensure it does not exclude the possibility of paying an exit credit because a pass-through arrangement is in place.

LGPS Scotland

2021 guides and factsheets published

On 2 June 2021, Rachel Abbey emailed administering authorities letting them know that we have published 2021 versions of:

- annual allowance factsheet for members version 1.8
- lifetime allowance factsheet for members version 1.8.

You can find the latest versions of these publications on the [Administrator guides and documents](#) page of www.scotlgpsregs.org.

Useful tips about the Administrator guides and documents pages:

- You can easily find the latest publications by sorting the table by publication date. Tap the Publication date column header twice to sort from newest to oldest.
- You can find old versions of documents by using the Filters on the right-hand side of the page. Choose 'All' or 'Old' under Status to find previous versions.

SAB Annual Report 2019/20 launched

Councillor Jim Goodfellow, the Chair of the Scheme Advisory Board (SAB), recently launched [the fifth Annual Report](#). The Report aims to provide a primary source of information about the Board's work over the last financial year (2019/20) for members, employers and other stakeholders. The Report also summarises the financial position of the Scottish funds and provides membership statistics.

HMRC

Pension schemes newsletter 130

HMRC published [Pension schemes newsletter 130](#) on 25 June 2021.

The newsletter provides an update on the temporary changes to pension processes which were due to end on 30 June 2021. These were to help scheme administrators during the pandemic. The changes in respect of accounting for tax returns and telling HMRC about QROPS transfers will end on 30 June 2021.

The newsletter also covers:

- a reminder to log in to your business tax account, as HMRC has started an ongoing programme to delete credentials for users who have not signed in for three years, and
 - an update on the migration to the Managing Pension Schemes service.
-

HMT

Finance Act 2021 receives Royal Assent

On 10 June 2021, [the Finance Act 2021](#) received Royal Assent.

The Act gives legal effect to the Government's decision to freeze the lifetime allowance at £1,073,100 for tax years 2021/22 to 2025/26, as announced at the last budget. The Government used budget resolutions to freeze the allowance from 6 April 2021 to the date the Act received Royal Assent.

Treasury launches consultation on cost control mechanism

On 24 June 2021, HM Treasury launched a consultation on proposed changes to the cost control mechanism alongside [a written ministerial statement](#).

The consultation follows [a review of the mechanism by GAD](#), which was published on 15 June 2021. HM Treasury requested the review amidst concern that the mechanism was not operating in line with its original objectives, in particular that it would only be triggered by extraordinary, unpredictable events.

The consultation sets out Treasury's response to GAD's findings and proposes making the following three changes, all of which were recommended in GAD's review:

- only considering past and future service in the reformed CARE schemes in the mechanism (so, removing any allowance for final salary schemes)
- widening the 2 per cent corridor to 3 per cent
- introducing an economic check so that a breach of the mechanism would only be implemented if it would still have occurred had long-term economic assumptions been considered.

The outcome of the consultation will not impact on the 2016 cost control valuations.

The consultation recognises that there are differences between the LGPS and other public service schemes, especially in the way in which employer contributions are set. The Government welcomes views on how the economic check would apply to the LGPS.

The consultation does not cover schemes in Northern Ireland, though Treasury welcomes feedback from all stakeholders across all UK public service schemes.

The consultation closes at 11:45pm on 19 August 2021. We intend to respond and will share our response before the closing date.

The consultation is available to view on the:

- [Non-scheme consultations](#) page of www.lgpsregs.org and
- [Non-scheme consultation](#) page of www.scotlgpsregs.org.

Treasury launches consultation on the SCAPE discount rate methodology

On 24 June 2021, HM Treasury launched a consultation on the methodology the Government uses to set the SCAPE discount rate alongside [a written ministerial statement](#).

The SCAPE (Superannuation Contributions Adjusted for Past Experience) discount rate is used in the valuation of unfunded public service pension schemes (such as the NHS scheme) to set employer contribution rates. The discount rate is also used to set actuarial factors in the LGPS and other schemes.

Subject to the consultation on the cost control mechanism (see previous article), the rate may also become relevant to the outcome of the mechanism in the future. This is because the Government proposes to base the 'economic check' on the SCAPE discount rate, or an alternative measure, such as expected long-term GDP.

The consultation seeks views on the objectives for the SCAPE discount rate and the most appropriate methodology for setting it.

The current level of the rate will not be changed by this consultation; the Government will carry out a separate exercise to set a new rate in line with the chosen methodology following this consultation.

The consultation closes at 11:45pm on 19 August 2021.

The consultation is available to view on the:

- [Non-scheme consultation](#) page of www.lgpsregs.org and
- [Non-scheme consultation](#) page of www.scotlgpsregs.org.

DWP

Consultation on pension scams

On 4 June 2021, Jayne Wiberg emailed administering authorities letting them know that we had published our response to the DWP [consultation on pension scams: empowering trustees and protecting members](#) (see [bulletin 210](#) for further information).

You can find the consultation document, links to the gov.uk webpage and our response on the:

- [Non-scheme consultation](#) page of www.lgpsregs.org and
- [Non-scheme consultation](#) page of www.scotlgpsregs.org.

TPO

TPO News: June 2021

On 10 June 2021 [the Pensions Ombudsman \(TPO\) published its June news](#). The news includes articles on:

- TPO legal forum taking place on 7 July 2021
- leaflets and factsheets recently published on the TPO website
- new legal determinations in May 2021.

TPR

Call for input on improving the pensions journey: Blog and extension

On 1 June 2021, [the Pensions Regulator \(TPR\) published a blog](#) setting out the reasons for the call for input on improving the pensions journey (see [bulletin 210](#) for further information).

The blog highlights how the world of pensions has changed. Life expectancy has risen significantly over the last 60 years, the demographic of membership has altered and savers in defined contribution schemes outnumber their defined benefit counterparts by 15 to one.

The closing date of the call for input has been extended to 30 July 2021.

TPR publishes Equality, Diversity and Inclusion Strategy

On 24 June 2021, TPR published its [Equality, Diversity and Inclusion Strategy](#).

The strategy sets out how TPR will embed diversity and inclusion throughout its organisation and how it will support the schemes it regulates to do likewise.

Other news and updates

Climate risk reporting

On 8 June 2021, [the Government published its response](#) to the recent consultation on taking action on climate risk. You can read more about this consultation in [bulletin 206](#).

The Government will introduce new rules that will require trustees to report on their scheme's climate change investment risks by October 2021. The Government has introduced several changes and easements to the regulations in response to industry concerns.

The regulations will not apply to the LGPS. We expect MHCLG to bring forward regulations which will require similar levels of risk assessment and reporting later this year.

CWG minutes

The Communications Working Group (CWG) met on 8 June 2021. You can find the minutes on the CWG pages of www.lgpsregs.org and www.scotlgpsregs.org. Topics discussed include:

- COVID-19
- member website
- digital engagement
- McCloud remedy
- exit payment reforms
- death grant communications
- state pension credit
- publication of the 2021/22 annual workplan.

Commons committee publishes report on public sector pensions

In June 2021, the House of Commons Committee of Public Accounts published [a report on public sector pensions](#), after taking evidence earlier this year from HM Treasury and the Government Actuary's Department.

The report includes the Committee's conclusions:

- HM Treasury focuses on affordability to the taxpayer, but this is often at the expense of its other objectives, such as ensuring a decent income in retirement and supporting employers in recruiting and retaining staff.
- Public service pensions are affecting the delivery of frontline services in some areas, due to increased employer contributions.
- HM Treasury has not done enough to ensure people understand the value of their pensions.
- HM Treasury has done little to identify and manage the stark differences in average pensions between genders and other groups.
- HM Treasury has had to revisit key elements of the 2014/15 reforms due to the McCloud judgment and the cost control process not working as intended. These issues may take decades to resolve fully.
- HM Treasury has not yet performed an evaluation of the 2014/15 reforms and the Committee is not convinced that it is on track to meet its objectives.

LGPS mortality data

On 15 June 2021, the Scheme Advisory Board (SAB) in England and Wales updated its LGPS mortality data to the end of March 2021. The data covers all LGPS administering authorities in England, Wales, Scotland and Northern Ireland.

On the same day, the SAB published updated reports from Aon and Barnett Waddingham. Each report sets out analysis of the mortality data of a single LGPS fund during the pandemic.

You can see the data and the reports on the [SAB COVID-19 Mortality page](#).

Making ABSs for active members available on a website

In accordance with [the Public Service Pensions \(Information about Benefits\) Directions 2014](#), administering authorities may provide annual benefit statements (ABS) to active members by making them available on a website. The Directions set out requirements that must be complied with when doing so. As a result of a question we have received, we would like to reiterate what those requirements are:

- if the member requests a copy of the ABS, the administering authority must provide a paper copy (or a copy in a similar form capable of being read) free of charge
- the administering authority must be satisfied that members will be able to get access to, and store or print, the ABSs
- the administering authority has taken into account the requirements of disabled persons
- each time the authority uses a website to provide an ABS to an active member, the authority must first have told the member that fact, explaining how the member will be able to access and read the statement
- where the authority is using a website for the first time to provide an ABS to the member, the authority must give the information mentioned in the last bullet by giving it to the member by hand or by sending it to the member's last known postal or email address. Each subsequent time, the authority must give that information in such manner as the administering authority considers will bring that information to the member's attention (including by sending it to the member's last known email address).

In our view, one of the ways it would be acceptable for the administering authority to bring the information to the member's attention is via the Scheme employer. The administering authority should satisfy themselves that the employer is able and willing to contact all relevant employees.

Action for administering authorities

If you make ABSs for active members available on a website, check that you are complying with the above requirements.

MaPS MoneyHelper goes live

On 18 March 2021, the Money and Pensions Service (MaPS) revealed plans to launch [a single offering for consumers called MoneyHelper](#). This will replace the Money Advice Service, the Pensions Advisory Service and Pension Wise. Though, Pension Wise will continue as a named service under the MoneyHelper umbrella.

Roll out began on 7 June 2021 with the launch of the Beta MoneyHelper website, ahead of a working date of 30 June for the full launch of MoneyHelper. The Beta launch allowed MaPS to continue testing and to gather vital feedback ahead of the full launch.

Next steps

As part of the consolidation of three brands into one, MaPS has decided to discontinue some of their content. This will enable them to provide a better and enhanced consumer experience, a single source of information and guidance where information can easily be found in one place.

As of 30 June 2021, links to the legacy websites (Money Advice Service, The Pensions Advisory Service and Pension Wise) will automatically redirect to the relevant new location on MoneyHelper. If the article(s) or tool(s) no longer exist, it will redirect to a relevant landing page on the broader topic.

Following the launch of MoneyHelper, you will need to change how you reference MaPS in your communications. You will need to change any reference to:

- The Money Advice Service and The Pensions Advisory Service to 'MoneyHelper', and
- Pension Wise to 'Pension Wise a service from MoneyHelper'.

You can find support and messaging to help you prepare for the transition to MoneyHelper on the MaPS [Introducing Moneyhelper](#) dedicated webpage where you can [download the MoneyHelper brand toolkit](#).

Action for administering authorities

Change your communications as set out above.

MaPS launches new standards for guidance

[The Money and Pensions Service \(MaPS\) has announced the launch of its new standards for guidance](#). The new standards set out the core principles for the effective delivery, quality and performance requirements of MaPS Debt Advice, Pensions Guidance and Money Guidance functions.

National LGPS Technical Group

The National LGPS Technical Group held their last meeting on 18 June 2021. The minutes can be found in the Technical Group pages of www.lgpsregs.org and www.scotlgpsregs.org. Topics include:

- updates from Government departments
- McCloud updates from regional pension officer groups
- Pensions Dashboards staging call for input
- DWP consultation on pension scams
- automatic payment of default refunds
- claims management companies – standard response
- Prudential AVCs.

Wider landscape

FCA encourages people to complain about transfer advice

We understand that the Financial Conduct Authority (FCA) has written to over 2,500 people who are likely to have been wrongly advised to transfer out their defined benefit pension urging them to complain. The advice was given by four independent financial advice companies that have since collapsed.

In the letter, the FCA urges recipients to complain to either the Financial Services Compensation Scheme or the relevant liquidator.

Training

Annual governance conference

We hope that you can join us in person for the 2022 Annual governance conference. We will be returning to the Marriott Highcliffe Hotel in Bournemouth. The conference will have its popular lunchtime to lunchtime timetable from Thursday 20 to Friday 21 January 2022.

We are currently working on the final programme and speakers. Booking will open shortly. If you would like to be notified when booking opens, please email your expression of interest to elaine.english@local.gov.uk.

Fundamentals training programme

We are pleased to announce that our Fundamentals training programme will resume this year. The training will take place in three locations: London, Leeds and Cardiff. The London sessions will be hybrid, so delegates will have the choice of attending in person or virtually. The sessions in Leeds and Cardiff will be face to face only. Use the links below to book your place now.

About

Fundamentals is a bespoke three-day training course aimed at elected members and others who attend pension committees/panels and local pension boards. Past delegates include elected members, trade union representatives, member and employer representatives, a variety of officers who attend or support committees and representatives of private sector organisations that provide services to administering authorities. The course delivers a scheme overview and covers current issues relating to administration, investment and governance in the LGPS.

Attending all three days will assist delegates in meeting the requirement for knowledge, skills and understanding that is either required in statute or encouraged by relevant guidance.

Each day has a different theme and will include sessions delivered by experts in their field. The events also provide delegates with valuable networking opportunities. Each day's programme will start at 10am, with registration and coffee from 9:30am, and close by 4pm with refreshments and lunch provided. For full details see the [Fundamentals training programme](#).

Cost and booking

The cost of each session is:

- £270 plus VAT for face to face training. The cost includes lunch, refreshments and all delegate materials
- £220 plus VAT for virtual attendance (London only). Please use the promotional code **HYB** on the booking page to activate the reduced rate.

Please also note that you will need to make bookings for virtual attendance separately from any face to face bookings in order to use the code.

We recommend early booking because places are limited. You can only book through the [LGA events page](#). We have provided links to each event below for your convenience.

12 October: Day 1 London	Etc Venues – also Hybrid (use code HYB)
21 October: Day 1 Leeds	Park Plaza Hotel
26 October: Day 1 Cardiff	Marriott Hotel
9 November: Day 2 London	Etc Venues – also Hybrid (use code HYB)
18 November: Day 2 Leeds	Park Plaza Hotel
23 November: Day 2 Cardiff	Marriott Hotel
2 December: Day 3 London	Etc Venues – also Hybrid (use code HYB)
8 December: Day 3 Leeds	Park Plaza Hotel
15 December: Day 3 Cardiff	Marriott Hotel

Legislation

Acts

[Finance Act 2021](#) [2021/26]

Useful links

[LGA Pensions page](#)

[LGPS member website \(England and Wales\)](#)

[LGPS member website \(Scotland 2015\)](#)

[LGPS Advisory Board website \(England and Wales\)](#)

[LGPS Advisory Board website \(Scotland\)](#)

[LGPS Regulations and Guidance website \(England and Wales\)](#)

[LGPS Regulations and Guidance website \(Scotland\)](#)

[Public Sector Transfer Club](#)

[Recognised Overseas Pension Schemes](#) that have told HMRC that they meet the conditions to be a ROPS and have asked to be included on the list.

LGPS pensions section contact details

If you have a technical query, please email query.lgps@local.gov.uk and one of the team's LGPS pension advisers will get back to you.

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Further information

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Whilst every attempt is made to ensure the accuracy of the bulletin, it would be helpful if readers could bring to the attention of the Secretariat any perceived errors or omissions by emailing query.lgps@local.gov.uk.