

## LGPC Bulletin 238 – May 2023

This bulletin contains updates for all LGPS stakeholders. It includes important articles on the following which need action by certain stakeholders:

- 2023 updates to guides, factsheets and leaflets [England](#) / [Scotland](#) – update local version(s)
- [Guarantee for academy trusts outsourcing arrangements](#) – update process and notify employers
- [McCloud remedy consultation](#) – review consultation documents
- [SCAPE discount rate and impact to actuarial factors update](#) – look out for email containing revised factors and transitional table
- [Automatic enrolment call for evidence](#) – notify employers
- [Consultation on second set of rectification regulations](#) – review the regulations – consider participating in round table discussions
- [Remedy newsletter May 2023](#) – consider participating in guidance testing
- [Club transfers](#) – update processes
- [Your LGPS contacts May 2023 elections](#) – review political and finance contacts.

If you have any comments or articles for future bulletins, please contact [query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk).

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## LGPS England & Wales Scheme Advisory Board (SAB)

### Code of transparency roadshows

The SAB is running a series of free, in person training sessions on investment cost transparency. The training is aimed at local pension board and committee members, as well as administering authority officers. Session dates and locations are listed below. Click on the location for a link to the booking page on the [LGA's website](#).

21 June	<a href="#">London</a>
11 July	<a href="#">Manchester</a>
20 July	<a href="#">Bristol</a>
12 Sept	<a href="#">Wolverhampton</a>
13 Sept	<a href="#">Leeds</a>
26 Sept	<a href="#">Cardiff</a>

The sessions will provide:

- an explanation of the purpose and background of SAB's ground-breaking code of transparency
- a case study from an LGPS fund on how investment cost information has been used
- a troubleshooting session on how to use the online reporting system – for officers only
- a facilitated discussion on the information that fund officers should be receiving and how this information should be reported to pension boards and committees – for officers only.

If you are asked for a purchase order number when you book, please use SAB2023.

### New Board support and policy officer

We are very pleased to welcome a new board support and policy officer supporting the Scheme Advisory Board (England and Wales) in May. Becky Clough joined the team in May from Shropshire Pension Fund. You can find contact details for Becky and the rest of the team in the [LGPS Contacts section](#) below.

### Review of climate risk reporting in the private sector

The Pensions Regulator (TPR) has published a [review of climate-related disclosures by occupational pension schemes](#). It sets out TPR's preliminary observations and feedback to industry. This is based on their review of a selection

of climate-related disclosures published by occupational pension schemes. The review relates to private pensions schemes but contains observations which may be useful for LGPS funds ahead of the implementation of Task Force on Climate-Related Financial Disclosures (TCFD) reporting.

### **Sharia compliance report commissioned**

The SAB received [legal advice](#) suggesting it should instruct an expert in Islamic finance to provide evidence on a range of issues around sharia compliance in the LGPS. The SAB has commissioned expert advice from Amanah Associates and their report will be due around three months' time.

### **Website updated**

[The SAB's website](#) has recently been updated. The content remains the same, though the look of the site has changed. The SAB encourages users to visit the site.

Use the links below to find out about the work of the SAB and its committees:

- [SAB meeting and agenda papers](#)
- [committee meetings and agenda papers](#)
- [Responsible Investment Advisory Group meetings and agenda papers](#)
- [news items](#).

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## **LGPS England & Wales**

### **2023 updates to guides, factsheets and leaflets**

On 23 May 2023, Rachel Abbey emailed administering authorities confirming we have published updated versions of:

- Councillors full guide - version 2.3
- Annual allowance factsheet for members - version 1.10
- AVC member guide - version 2.4
- April 2014 update for councillors in England - version 2.3
- Introductory leaflet for councillors in Wales - version 2.0.

The new versions, plus versions showing tracked changes, can be found on the [Administrator guides and documents page](#) of [www.lgpsregs.org](http://www.lgpsregs.org).

The guides are published in Word so administering authorities can add contact information and any other specific details.

Additional steps may be needed if the documents are converted to PDF for publication, to ensure they comply with [the Public Sector Bodies \(Websites and](#)

[Mobile Applications\) \(No. 2\) Accessibility Regulations 2018](#) - see [Bulletin 190](#) for more information. For example, any tables will need tagging correctly.

You can find more information online about:

- how to [create accessible PDFs](#)
- [creating accessible PDFs in Adobe Acrobat](#).

### **Action for administering authorities**

Update any local versions of the guides, factsheets and leaflets.

### **Changes to the SAB's cost management process**

On 11 May 2023, the Department for Levelling Up, Housing and Communities (DLUHC) [published its response](#) to the consultation on changes to the SAB's cost management process. See [bulletin 233](#) for more information.

Also on 11 May 2023, the Government laid [the Local Government Pension Scheme \(Amendment\) \(No.2\) Regulations 2023](#) ('the regulations'). These come into force on the 1 June 2023.

The changes better align the SAB's cost management process with HM Treasury's (HMT's) reformed cost control process. They give the SAB greater flexibility in the making of recommendations to the Secretary of State where there is a breach.

DLUHC's response helpfully re-iterates the SAB process operates before HMT's cost control mechanism. However, it leaves open for further discussion the link with the new "economic check" in HMT's process.

You can find all the documents on the [Scheme consultations](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

### **Guarantee for academy trusts outsourcing arrangements**

On 17 May 2023, [the Department for Education \(DfE\) published their policy](#) for guaranteeing the outsourcing arrangements of academy trusts. This applies to England only.

Education and Skills Funding Agency (ESFA) approval is no longer required by academy trusts seeking pass-through arrangements with their administering authorities for outsourcing contracts for employees covered by the DfE Guarantee policy. The DfE Guarantee covers employees eligible for the LGPS who:

- are working for the academy trust, who are transferred to a contractor or on future re-tenders as part of an outsourcing contract

- were working for the local authority in a maintained school, then transferred to a contractor under TUPE, prior to the school becoming an academy, and where the outsourcing contract has passed to the academy trust following conversion to an academy
- are working for the local authority, which is providing services to the academy trust under a contract, and the trust decides to outsource this contract to a third-party provider. Therefore, the employees transfer from the local authority to the new contractor.

### **Key points**

1. Provided the circumstances of an outsourcing contract match one or more of the scenarios outlined in [the policy document](#) the academy trust does not need to seek ESFA approval for pass-through arrangements.
2. If the circumstances of an outsourcing contract are not covered in the policy document, the academy trust must seek ESFA approval using the [Education and Skills Funding Agency enquiry form](#).
3. All contracting arrangements currently in place that meet the criteria outlined in the policy document are eligible for pass-through under the DfE Guarantee.
4. Where academy trusts have already entered arrangements that do not meet the criteria outlined in the policy document, they may discuss alternative options with the relevant administering authority.
5. Under a pass-through arrangement, if the contractor external to the academy trust ceases to trade, then the LGPS liabilities will remain with the trust. The trust may then choose to seek a new provider or bring services in-house.
6. The policy means the administering authority should no longer require a bond for pension liabilities. However, if they insist, that would be for the external contractor to provide, as an academy trust cannot provide a bond for LGPS pension liabilities. Where this happens, academy trusts should notify ESFA through the [Education and Skills Funding Agency enquiry form](#).

### **Action for administering authorities**

Provided [the conditions in the DfE policy document](#) are met, you do not need to request evidence of ESFA approval for pass-through arrangements. Update your processes and notify your academy trusts.

### **McCloud remedy consultation**

On 30 May 2023, [DLUHC published a consultation and draft regulations](#) concerning the McCloud remedy. The consultation closes on 30 June 2023.

The consultation seeks views on proposals to address discrimination found by the courts in the McCloud case. This follows the Government's response published in April 2023. See [bulletin 237](#) for more information.

DLUHC is consulting on new approaches in certain areas that reflect responses to the 2020 consultation and more closely align the LGPS to policies adopted by other public service pension schemes. DLUHC is seeking views on the following proposals:

- No aggregation requirement: underpin protection will extend to a new pension account that started before 1 April 2022, even if the earlier period of membership is not aggregated, as long as there has not been a disqualifying break.
- Previous membership of another public service pension scheme on or before 31 March 2012: a member will qualify for underpin protection because of earlier membership of another public service pension scheme, even if the pension rights from the other scheme have not been transferred to the LGPS, as long as there has not been a disqualifying break.
- Flexible retirement: a member with underpin protection who takes flexible retirement before 1 April 2022 will also have underpin protection on any benefits built up after flexible retirement and before the end of the underpin period. The consultation also considers how the underpin will operate when a member takes partial flexible retirement.

The consultation covers topics that were not included in the 2020 consultation. These include:

- policies for individuals with excess teacher service - see [Bulletin 229](#) for background information on this group
- when a member may be paid compensation if they have suffered a loss relating to the discrimination found in the McCloud case or the McCloud remedy
- the interest terms that will apply when payments are made late due to the McCloud discrimination.

We will respond to the consultation in due course and let you know we have done so. You can access the consultation documents on the [Scheme consultations](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

### **Action for administering authorities**

Review the consultation documents and respond by 30 June 2023.



## **SCAPE discount rate and impact to actuarial factors - update**

In [bulletin 236](#) we let you know certain transfer calculations and cash equivalent values for divorce should be immediately suspended following the change to the SCAPE discount rate in March 2023.

On 25 May 2023, we met with DLUHC to discuss the publication of the revised factors. We can confirm we are expecting these imminently.

We will publish the new factors on the [Actuarial guidance page](#) of [www.lgpsregs.org](http://www.lgpsregs.org) together with a revised transitional table. We will also email administering authorities to let them know the new factors are available.

### **Action for administering authorities**

Look out for an email containing revised factors and transitional table.

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## **LGPS Scotland**

### **2023 updates annual allowance factsheet**

On 23 May 2023, Rachel Abbey emailed administering authorities confirming we have published an updated version of the annual allowance factsheet - version 1.10.

The new version, plus a version showing tracked changes, can be found on the [Administrator guides and documents page](#) of [www.scotlgpsregs.org](http://www.scotlgpsregs.org).

The factsheet is published in Word so administering authorities can add contact information and any other specific details.

Additional steps may be needed if the document is converted to PDF for publication, to ensure it complies with [the Public Sector Bodies \(Websites and Mobile Applications\) \(No. 2\) Accessibility Regulations 2018](#) - see [Bulletin 190](#) for more information. For example, any tables will need tagging correctly.

You can find more information online about:

- how to [create accessible PDFs](#)
- [creating accessible PDFs in Adobe Acrobat](#).

### **Action for administering authorities**

Update any local versions of the annual allowance factsheet.

## **SAB February 2023 meeting**

On 10 May 2023, the Scottish Scheme Advisory Board (SAB) published [the minutes of its meeting held on 8 February 2023](#).

At the meeting, the SAB discussed the following:

- cost transparency reporting tool
- GAD request for costs for LGPS services
- Scottish Public Pensions Agency (SPPA) update
- training workshop
- National Care Service
- additional specialist support
- workplan.

## **SPPA letter regarding 2023 valuation**

On 28 April 2023, Iain Coltman sent a letter to administering authorities. The letter sets out SPPA's position on the following three aspects for authorities to consider when undertaking the 2023 triennial valuation:

- McCloud remedy
- cost cap valuation
- Section 13 report – recommendations.

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## **DWP**

### **Automatic enrolment - call for evidence**

On 15 May 2023, the Department for Work and Pensions (DWP) [published a call for evidence](#) on the alternative quality requirement used by defined benefit schemes for automatic enrolment (AE). The call for evidence closes on 19 June 2023.

The existing requirements allow for simpler alternative tests to be used so the scheme can demonstrate it is of sufficient quality to be used by employers to fulfil their AE duty. The call for evidence aims to conclude whether the government's policy in this area continues to be achieved.

### **Action for administering authorities**

Notify your employers of this call for evidence.

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## **HMRC**

## Consultation on second set of rectification regulations

On 22 May 2023, HMRC launched a consultation on The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No.2) Regulations 2023.

The draft regulations supplement [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023](#) ('first set of regulations'), which came into force on 6 April 2023.

The first set of regulations modifies various tax legislation, so the correct tax treatment is applied when public service schemes implement the McCloud remedy. For more information, see [the commentary](#) we provided on these. The draft regulations propose further modifications.

HMRC will shortly publish guidance on the draft regulations.

As part of the consultation, HMRC will hold several round tables. These will provide an opportunity to raise any technical points on the draft regulations. If you would like to be involved, email [policypensions@hmrc.gov.uk](mailto:policypensions@hmrc.gov.uk), putting 'Public service pensions remedy tax regulations round tables' in the subject line.

The consultation closes on 19 June 2023.

For more details on the consultation, see the non-scheme consultations pages of [www.lgpsregs.org](http://www.lgpsregs.org) and [www.scotlgpsregs.org](http://www.scotlgpsregs.org).

### Action for administering authorities

Review the regulations and consider whether you wish to respond to the consultation.

Consider if you would like to be part of the round table discussions.

### Remedy newsletter – May 2023

On 23 May 2023, HMRC published [Remedy newsletter May 2023](#). The newsletter provides information on the following topics:

- Draft regulations: summarises the draft rectification regulations mentioned in the previous article.
- HMRC processes: HMRC is developing processes it will need to support the McCloud remedy. As part of this, they will provide a single point of contact for each public service organisation. The newsletter also asks for details of a named contact within each organisation to set up initial meetings to help

develop the processes. We have contacted HMRC to clarify if the named contact is at a local or national level.

- Guidance: HMRC is drafting McCloud remedy guidance, which they hope to publish in Autumn 2023. In advance of this, they would like to test some of the guidance with users to make sure it is covering what is needed. If you would like to volunteer, email [publicservicepensionsremedy@hmrc.gov.uk](mailto:publicservicepensionsremedy@hmrc.gov.uk) and put 'Guidance testing' in the subject line.

### **Action for administering authorities**

Consider whether to volunteer to assist HMRC.

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## **HMT**

### **Public Service Pensions – cost control mechanism and reformed scheme only design**

On 15 May 2023, HM Treasury (HMT) published a [written ministerial statement](#) and [further detail](#), on the cost control mechanism and reformed scheme only design.

The publications confirm only the reformed scheme design will be included in the cost control mechanism. Any cost increases associated with final salary benefits and the impact of the underpin will be excluded.

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## **Pensions dashboards ('dashboards')**

### **Consent and authorisation wording for dashboards**

The Pensions Dashboards Programme (PDP) commissioned Ipsos to undertake [research to help develop consent and authorisation wording](#) for dashboards.

A research group covering a range of ages, income levels and pension types was asked to provide feedback on draft versions of consent and authorisation wording that would appear on dashboards. The wording explained what the Money and Pensions Service would and would not do with users' data and asked for consent for these uses. The feedback was positive and will be used to further shape the wording.

### **Latest news**

In May 2023, PDP [published their Progress update report on dashboards](#). There are articles on:

- the Department for Work & Pensions (DWP's) written ministerial statement on pensions dashboards connection times confirming that there will be an update before parliamentary recess in July
- programme reset following the written ministerial statement – reset got underway on 20 March and more information will be available before parliamentary recess in July
- consent comprehension research - a research into users' understanding of how their data will be used during the dashboards journey
- preparing for dashboards – connection, data, matching, awareness and understanding legal and regulatory obligations
- updates from DWP, the Financial Conduct Authority and the Pensions Regulator
- useful resources
- subscribing to PDP's newsletter.

### **Pensions Dashboards (Prohibition of Indemnification) Act 2023**

On 2 May 2023, the [Pensions Dashboards \(Prohibition of Indemnification\) Act 2023](#) received Royal Assent.

The Act will prohibit trustees and managers of occupational and personal pension schemes from being reimbursed out of scheme assets for any penalties imposed on them under [the dashboard regulations](#).

The Act applies to the United Kingdom and comes into force on a date determined by the Department for Work and Pensions (or, in the case of Northern Ireland, the Department for Communities).

## **TPO**

### **'Where to go for help with your pension complaint' factsheet**

On 27 April 2023, The Pensions Ombudsman (TPO) published a factsheet titled ['Where to go for help with your pension complaint'](#).

The factsheet helps members to decide if to refer their complaint to TPO or the Financial Ombudsman Service.

## **TPR**

### **Blog on refreshed guidance for trustees in challenging times**

On 10 May 2023, [TPR published a blog](#) on refreshed guidance for trustees in challenging times.

TPR have refreshed their guidance to support trustees dealing with employer stress or distress during economic challenges. They urge trustees to revisit this guidance, and, where appropriate, take action and engage with TPR at an early stage.

### **Blog on why ignoring ESG is no longer an option**

On 17 May 2023, [the Pensions Regulator \(TPR\) published a blog](#) on why ignoring environmental, social and governance (ESG) factors is no longer an option for trustees.

The blog discusses developments in government policy, increased regulations, industry initiatives and greater industry awareness of the implications for life.

### **Capita cyber security incident**

On 12 May 2023, [the Pensions Regulator \(TPR\) updated its website](#) with a page covering the Capita cyber security incident. This follows a security breach where it is now known that some data has been exfiltrated from Capita's servers.

TPR encourages all administrators who use Capita's services to check whether their pension scheme data could be affected.

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## **Other news and updates**

### **Club transfers – extending the 12-month time limit**

On 26 April 2023, the Cabinet Office clarified a Club transfer may take place outside the 12 month time limit, in exceptional circumstances and providing both the sending and receiving schemes agree. Colin Hennem (Pensions Technical Manager) confirmed:

“[the Club Memorandum](#) requires a transfer to be calculated on Club terms if the member confirms in writing that they wish the transfer to proceed within 12 months of joining the new Club scheme. The Club Memorandum is silent on what should happen if that confirmation is sent outside the 12 month time limit. However, it has long been our policy that the two schemes involved may agree to a Club transfer outside the 12 month time limit (ie a belated Club transfer) if there are exceptional circumstances that prevented the member from sending the confirmation within the 12 month time limit - eg if there were delays in providing the necessary quotes that were outside the member's control. In the past, when the additional cost of the more generous Club transfer terms was met by the receiving scheme, our view was that it

was only necessary for the receiving scheme to agree to a belated Club transfer. However, under the 'inner' Club arrangements, the additional cost of the more generous terms is spread more evenly between the two schemes. Therefore, I think it is appropriate that a belated Club transfer can only proceed if both the sending and receiving schemes agree to this. The Cabinet Office (as Secretary to the Club) has no authority to compel the schemes in question to agree to a belated Club transfer.”

#### **Action for administering authorities**

Incorporate this clarification into your Club transfer process.

#### **Club transfers – new factors and revised memorandum**

On 16 May 2023, Cabinet office let us know they plan to issue new Club factors and a revised memorandum. It is intended these will come into force on 1 October 2023.

The new factors take account of the change to the superannuation contributions adjusted for past experience (SCAPE) discount rate made in March 2023.

The revised memorandum will contain instructions for members affected by McCloud and have minimal impact on members not affected by McCloud.

The new factors and revised memorandum will be shared before 1 October 2023 to allow administering authorities to prepare before they come into force.

#### **Your LGPS contacts – May 2023 elections**

Administering authorities are responsible for updating their own contacts using the 'Your LGPS contacts' system. Following the May 2023 elections, we have received a high volume of undeliverable messages to political contacts. We also have a high level of undelivered messages to finance contacts.

We would be grateful if all administering authorities would review their political and finance contacts as soon as possible. This is in addition to regularly reviewing all contact information to ensure it remains up to date.

#### **Action for administering authorities**

Review your political and finance contacts on the 'Your LGPS contacts system' as soon as possible.

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## **Training**

### **Annual governance conference 2024**

Our annual governance conference retains its popular lunchtime to lunchtime schedule. It will take place on Thursday 18 and Friday 19 January 2024 at the Principal Hotel in York. We are finalising the programme and securing speakers. Booking will open in July 2023.

If you would like to be notified when bookings open or if you have any questions about the conference, please email [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk).

### **Focus group minutes**

[The minutes of the Training focus group meeting held on 4 January 2023](#)

accompany this bulletin. Topics discussed include:

- an update on training events since the last meeting and forthcoming events
- views on LGPS qualification / apprenticeship.

The next meeting will be held on 20 July 2023.

### **Fundamentals training 2023**

Our Fundamentals training for 2023 is now open for booking.

Fundamentals is a three-day training course predominately aimed at elected members and others who attend pension committees and local pension boards. Past delegates have also included trade union and employer representatives, and officers who support committees and boards. The course provides a scheme overview and covers current issues in relation to administration, investments and governance of the LGPS. All sessions are delivered by experts in their field. See the [course programme](#) for full details – the timings shown only apply to the in person sessions.

We are running the in person training in two locations - London and Manchester, and online.

We have listened to feedback and will be delivering each day of the online sessions over two days. You only need to complete one booking per day – this will automatically book you on both of the half days. It is not possible to book for a half day. The online sessions will be delivered using Zoom.

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



## Cost

In person - £280 plus VAT per session. The price is inclusive of lunch and refreshments.

Online - £240 plus VAT per session.

We recommend early booking as places are limited. You can book online through the [LGA events page](#). We are unable to take manual bookings. Please find links to the individual sessions below.

### Day one

- [5 October](#) – Manchester, Piccadilly Hotel
- [12 October](#) – Westminster, LGA offices
- [19/26 October](#) – online.

### Day two

- [2 November](#) - Westminster, LGA offices
- [8 November](#) - Manchester, Piccadilly Hotel
- [16/23 November](#) – online.

### Day three

- [5 December](#) - Westminster, LGA offices
- [13 December](#) - Manchester, Piccadilly Hotel
- [11/19 December](#) – online.

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## Wider landscape

### Annual revaluation date change

On 17 May 2023, the Department for Communities made the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2023. The regulations change the annual revaluation date in the LGPS in Northern Ireland. The regulations came into force on 12 June 2023, with backdated effect to 1 April 2023.

The regulations make similar changes to those made to the LGPS in England and Wales. See [bulletin 234A](#) for more information.

### NHS Pension Scheme consultation: changes to contribution thresholds

On 3 May 2023, the Department of Health and Social Care launched a consultation about uplifting member contribution thresholds in the NHS Pension Scheme 2015 (England and Wales) for 2023/24. The consultation closed on 17 May 2023.

On 25 May 2023, the Department responded to the consultation, confirming they will proceed with the changes.

You can access the consultation documents on [the relevant page of gov.uk](#).

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## Legislation

- Pensions Dashboards (Prohibition of Indemnification) Act 2023 [[2023 c.14](#)]
  - The Local Government Pension Scheme (Amendment) (No.2) Regulations 2023 [[SI 2023/522](#)]
  - The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 [[SR 2023/81](#)]
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## Useful links

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

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

[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.

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## LGPS pensions team

### Raising a query

If you have a technical query, please email [query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk) and one of the team's LGPS pension advisers will get back to you. To avoid delays in receiving a response, please do not email advisers directly.

### Team contacts

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**Further information**

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