



Pension Board
3 September 2024

**Report from the Corporate Director,
Finance and Resources**

LGPS Update Report

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| Wards Affected: | All wards |
| Key or Non-Key Decision: | Non-Key |
| Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small> | Open |
| List of Appendices: | Five: Appendix 1: LGPC Bulletin – March 2024 Appendix 2: LGPC Bulletin – April 2024 Appendix 3: LGPC Bulletin – May 2024 Appendix 4: LGPC Bulletin – June 2024 Appendix 5: LGPC Bulletin – July 2024 |
| Background Papers: | None |
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1.0 Executive Summary

- 1.1 The purpose of this report is to update the Board on recent developments within the Local Government Pension Scheme (LGPS) regulatory environment and any recent consultations issued which would have a significant impact on the Fund.

2.0 Recommendation(s)

2.1 The Committee is asked to note the recent developments in the LGPS.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 The work of the Pension Fund is critical in ensuring that it undertakes statutory functions on behalf of the Local Government Pension Scheme and complying with legislation and best practice. Efficient and effective performance and service delivery of the Pension Fund underpins all Borough Plan priorities.

3.2 Background

Introduction for any new members

There are a few key topics that justify an introduction.

A) McCloud

When the Government introduced the new public sector pension schemes in 2014-15 they built in protections for older members. A member of the Judges' Pension Scheme (McCloud) successfully argued that the protection was age discriminatory and should be offered to all members.

B) The lifetime allowance

The lifetime allowance applied to all pension schemes and it placed limits on how much pension a member could accrue and how much they could take as tax free lump sum. Although the Government decided to abolish the lifetime allowance with effect from 6th April 2024, it chose to retain limits on how much members could draw as a tax-free lump sum.

C) Pension dashboards

The Government wants members of pension schemes to be able to access details of all the elements of their pension schemes from one portal. The challenge is to balance accessibility with data protection considerations.

LGPS England and Wales

3.2.1 Following the 2024 General Election, Jim McMahon MP was appointed Minister of State at Ministry of Housing, Communities, and Local Government (MHCLG) on 6 July 2024. The role includes ministerial responsibility for local government, including the LGPS.

3.2.2 On 20 July 2024, the Government announced a pensions review as part of its mission to 'boost growth and make every part of Britain better off'. The review will look at how to 'unlock the investment potential of the £360 billion LGPS'

and the Government will consider legislating to mandate pooling if insufficient progress is made by March 2025.

Scheme Advisory Board (SAB)

- 3.2.3 The Divestments and Sanctions Bill reached the committee stage after its second reading in the House of Lords on 17th April 2024. The bill tries to stop Administering Authorities investment policy being influenced by moral or political disapproval of a states conduct, unless it is required by Government legal sanctions, embargoes or restrictions.
- 3.2.4 The Board asked Lydia Seymour (Counsel) to update her advice on Sharia Law in relation to LGPS investments. In her view, the risk of a successful challenge against a scheme is unlikely.
- 3.2.5 The SAB conducted a webinar for employers on excess service in the Teachers' Pension Scheme.
- 3.2.6 Teachers who are entitled to an underpin, and had not retired by 31st October 2023, will have their excess membership "rolled back" to the legacy final salary pension scheme (LGPS). When the employer is contacted by Teachers' Pensions they will have to;
- determine whether the teacher is employed by an LGPS employer and whether they are an active, deferred or pensioner member,
 - verify or correct the information provided by Teachers' Pensions and
 - provide the information required to build an LGPS pension record.
- 3.2.7 The Education and Skills Funding Agency has published new guidance for academies produced by the Academies Working Group.
- 3.2.8 The SAB intends to update the March 2024 annual report guidance in the light of feedback and publish it by the end of the year.
- 3.2.9 The Board in concert with the Institute of Chartered Accountants in England and Wales (ICAEW) has commissioned a guide to outline the milestones and information flow for the triennial valuation for accounting and audit purposes and it was published on the board's website in June.
- 3.2.10 The Board has established a working party to update the funding strategy statement (FSS) guidance that was published in 2016. The guidance will include detailed coverage of setting up academies on conversion and explore the possibilities, and the potential pitfalls, generated by employer flexibility and deferred debt arrangements and offer considered advice. The general election has stalled the Good Governance recommendations, but the SAB will ensure they are raised as a priority with the new Minister.

3.2.11 The Government Actuary's Department (GAD) has completed its scheme cost assessment under regulation 116; however, the Board runs a parallel exercise using its own methodology and assumptions. The Board's exercise assessed the costs as being 20.50% of pensionable pay, which is 1% above the 19.5% target. Although this is within the range that the Board could recommend changes in the benefit structure. It decided against doing so.

The Government Actuary (GAD)

3.2.12 The Ministry for Housing, Communities and Local Government (MHCLG) has updated actuarial guidance covering a wide range of processes. The guidance focuses on how to apply the McCloud remedy and it does not contain new factors.

TPR (the Pensions Regulator)

3.2.13 The board held an online focus group for administering authorities to gather initial feedback on the Pension regulator's Single Code and provide support and interpretation to help them to comply. The Secretariat hosted a webinar to discuss the overlaps within some of the modules and it hopes that the implementation of the good governance recommendations will help resolve these ambiguities; however, authorities should not delay reviewing their compliance with the new Code while waiting for the results.

3.2.14 The following modules overlap; the governing body - funding and investment - administration - communications and disclosure - reporting to TPR. There is no regulatory timescale for complying with the code but having a clear plan and setting out milestones towards being fully compliant is strongly encouraged by TPR.

National LGPS Frameworks

3.2.15 The National LGPS Framework for Additional Voluntary Contribution (AVC) Services was launched in July. It is split into two Lots; AVC services and AVC Consultancy services, which are designed to help administering Authorities to access AVC services and assist with issues relating to AVC provision, respectively.

Dashboards

3.2.16 The Pensions Regulator (TPR) has published a 'Check your connect by date' tool to help administrators understand their deadline for connecting with the dashboard. All public sector schemes must connect by 31st October 2025.

3.2.17 The Pensions Dashboards Programme (PDP) published data standards version 1.2. On 13th May 2024, which sets out the requirements for 'finding' and 'viewing' pensions information and are mandatory for providers and schemes connecting to the ecosystem. Administering authorities should discuss the data standards with their integrated service provider (ISP) to ensure they are compliant.

The Pensions Ombudsman (TPO)

3.2.18 The TPO is devising a three-year corporate plan to increase efficiency and cut waiting times.

3.2.19 The Kings Speech set out the Government's intention to confirm that The Pensions Ombudsman (TPO) as a competent court. This would remove the need to apply to the courts to enforce a TPO decision relating to overpayments.

Virgin Media v NTL case

3.2.20 The High Court ruled that amendments of Section 9(2B) in scheme rules were void unless the scheme's actuary confirmed that they still met the contracting-out adequacy test. The appeal focused whether this ruling applied to rights accrued before and after the changes. The court of appeal determined that it applied to both and, as it is understood it will affect the public sector pension schemes, HM Treasury is assessing its implications.

Farley v Paymaster

3.2.21 A group of members took action against their scheme administrators because pension correspondence marked "private and confidential" with a return address on the envelope had been sent to the wrong addresses. Some of the claims were unsuccessful because they relied on the *assumption* that the correspondence had been opened; however, 14 were allowed to proceed because they claimed that the correspondence intended for them *had* been opened by a third party (not that it *could* have been opened).

3.2.22 This case illustrates the importance of data quality, accuracy, marking correspondence that includes personal information "private and confidential" and including a return address on envelopes.

4.0 Stakeholder and ward member consultation and engagement

4.1 This is not applicable to this report.

5.0 Financial Considerations

5.1 There are no specific financial implications associated with this report.

6.0 Legal Considerations

6.1 There are no specific legal considerations arising from this report.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

7.1 There are none directly arising from this report.

8.0 Climate Change and Environmental Considerations

8.1 There are none directly arising from this report.

9.0 Human Resources/Property Considerations

9.1 There are none directly arising from this report.

10.0 Communication Considerations

10.1 None that are applicable to this report.

Report sign off:

Minesh Patel

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