

	Pension Board 22 July 2025
	Report from the Corporate Director, Finance and Resources
LGPS Update Report	

Wards Affected:	All wards
Key or Non-Key Decision:	Not Applicable
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
List of Appendices:	Five: Appendix 1: Consultation on the Local Government Pension Scheme England and Wales; Access and Fairness Appendix 2: LGPC Bulletin – March 2025 Appendix 3: LGPC Bulletin – April 2025 Appendix 4: LGPC Bulletin – May 2025 Appendix 5: LGPC Bulletin – June 2025
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

Consultation on the Local Government Pension Scheme England and Wales; Access and Fairness

- 3.2.1 The Government believes that the LGPS should be available to all those who provide the services for which local government is responsible. On 15 May 2025, the Ministry of Housing, Communities and Local Government (MHCLG) published its LGPS Access and Fairness consultation, attached in Appendix 1.
- 3.2.2 The consultation focusses on promoting equal access to the scheme and its benefits, and fairness. It closes on 7 August 2025.
- 3.2.3 The proposal is to equalise the survivor pension entitlement of all members, regardless of the sex of the eligible member or their survivor, and to update regulations on survivor benefits and death grants in relation to these points.
- Widower's and male civil partner's pensions are based solely on post-06 April 1988 membership whereas same sex partner's survivor's pensions and widow's pensions are based on post 6th April 1978 membership.
 - This position is untenable following the decisions in the Goodwin appeal against the Teachers' Pension Scheme in 2020 and the Brewster appeal against the Northern Ireland LGPS, and removing this unlawful discrimination is essential.
- 3.2.4 The proposal to amend the Benefits Regulations to formally remove the nomination requirement for all deaths that occurred between 1 April 2008 and 31 March 2014.
- The requirement to nominate the cohabiting partners of members who left between 1 April 2008 and 31 March 2014 has been unlawful since the High Court decision in the Elmes case in 2018, and it should be removed.

3.2.5 The proposal to amend the 2013 Regulations to remove reference to an age 75 limit on eligibility for death grant payments, and to amend the 2014 Regulations to disapply the age 75 limit on death grants for individuals to whom the rules of the previous schemes continue to apply and who died on or after 1 April 2014.

- Although the Finance Act of 2004 introduced an age 75 limit on death grants in 2006, it was removed in 2011 and all the other public sector schemes followed suit - apart from the LGPS.
- 3.2.5 As many members do not reach state pensionable age until age 67 (or even 68), the age 75 limit frustrates the 2013 scheme's intended ten-year pension guarantee.

3.2.6 The removal of the requirement to pay death grants to the personal representatives once two years have elapsed after the administrators became aware of the death.

- The obligation to pay death grants to the personal representatives attracts a 45% special lump sum death benefits charge (SLSDBC) instead of Income Tax at the recipient's marginal rate if it is paid to a beneficiary.
- The requirement to pay to the death grant to the Personal Representatives is punitive and it serves no purpose as death grants over two years have been authorised payments since 2016.

3.2.7 The proposal to align the cost of buying back authorised unpaid leave over 30 days with standard member contribution rates.

- This advocates a return to the situation prior to 2014 when the members paid the contributions they would have paid had they been at work for the first 30 days. It is fairer, easier to administer and addresses equality concerns.
- There are two supplementary proposals; (1) increasing the time limit for electing to pay the contributions from 30 days to one year and (2) to remove the 36 months ceiling for a period of leave without pay.
- As 36 months is seldom, if ever, awarded removing the 36-month limit may allow outlying employers to offer even longer periods.

3.2.8 Proposal to update the definition of child-related leave to include all periods of additional maternity, adoption and shared parental leave without pay.

- A mother who takes the full 52 weeks statutory maternity she is entitled to, will take 26 weeks of ordinary maternity leave (pensionable), 13 weeks additional maternity leave where some pensionable pay is received (pensionable) and 13 weeks of additional maternity leave where no pensionable pay is received (non-pensionable).
- The Government proposes making additional maternity leave, additional adoption leave and shared parental leave during which no pay is received pensionable, with the cost to be met by the employer.

- If the member is not entitled to any pay during additional maternity / adoption leave, this proposal would make an additional 26 weeks pensionable.

3.2.9 Proposal to monitor and report on opt-outs.

- The government suggests adding a requirement to report on the rate of opt-outs in the Annual Report under Regulation 57.

3.2.10 The government makes four proposals intended to make the forfeiture process work better and address known issues with current regulations.

- The four proposals are 1) to remove the requirement for the member to leave employment because of the offence, 2) abolish the three-month time limit to make an application, 3) remove the regulations concerning interim payments and to 4) publish guidance on making a forfeiture application.
- The conditions that need to be satisfied for forfeiture (regulation 91) make it unwieldy and (almost) unworkable. This is why most employers prefer to use regulation 93, recovery or retention where a member has a misconduct obligation – although it is not a complete solution.
- The proposed changes to regulations 91 and 93 would make the provisions more effective and the proposed forfeiture guidance would be helpful.

3.2.11 Proposal to extend de-minimis (special type of trivial commutation) payments commutation to pre-2008 leavers.

- This would allow pre-2008 members whose total pension benefits in the LGPS are valued at less than £10,000 to commute their pension benefits to a single lump sum, and it removes an anomaly as this option is already available to post 2008 leavers.

3.2.12 The proposal to offer pre-2014 leavers the option to use their additional voluntary contributions (AVCs) to buy additional LGPS pension if they crystallise their AVCs at the same time as their deferred benefits.

- Pre-2014 leavers cannot use all or part of their AVCs to purchase additional pension when they crystallise their deferred pension benefits unlike post-2014 leavers, and it makes sense to remove this anomaly.
- However, it is important to note that it only applies to members who have a substantive LGPS benefit, not just an “orphan” AVC.

3.2.13 Proposal to remove the five-year limit for refunds.

- The government intends to remove the arbitrary five-year limit for paying refunds and replace it with a requirement that they must be paid before the member reaches age 75. This is a necessary amendment that would be welcomed by administrators.

3.2.14 Proposal to limit short-term child's pensions under the 1995 and 1997 Regulations (pre-2008 leavers).

- Short-term pensions are paid at a higher rate for three months (six months if there is no spouse) to help manage the financial shock of bereavement.
- There may be (limited) savings but it is a retrospective diminution of pension benefits, some members may have transitional protection under the miscellaneous provisions 2006 and it may be tricky to administer.

3.2.15 Conclusion

- Although the philosophy underpinning these changes is presented as advancing access and fairness, many of the proposals are necessary to ensure compliance with the law.

Virgin Media v NTL

3.2.16 The High Court ruled that pension scheme amendments in respect of Section 9(2B) rights were invalid unless the scheme actuary confirmed that they met the contracting-out requirements.

3.2.17 Although this is not considered to be a serious problem for statutory public sector schemes it has caused concern in the private sector. In response, the Government has announced that it will introduce legislation to allow pension schemes to obtain actuarial certification retrospectively.

Accounts Decoupling

3.2.18 In April 2025, the Government response to the Local audit reform in England consultation committed the Government to the decoupling of pension fund accounts from administering authority main accounts.

3.2.19 It is expected that the English Devolution Bill will be the legislative vehicle for this change and decoupling will take effect from the 2026/27 accounts onwards.

McCloud

3.2.20 HM Treasury laid the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2025 on 3 April 2025.

3.2.21 The regulations came into force on 24 April 2025 and modify the existing rules to prevent adverse tax consequences flowing from underpins.

3.2.22 The LGPS (Information) Regulations 2024 includes a discretion to extend the implementation period for active and pensioner members (who will not receive an ABS) until 31 August 2026.

3.2.23 The discretion can also be used to extend the implementation period for members who will not receive an ABS in 2025 and the details are explained in the statutory guidance on McCloud implementation.

3.2.24 If the Administering Authority decides to use the discretion it must:

- Carefully consider whether to use the discretion not to include underpin information in the 2025 ABS.
- Discuss the reasons for any delay at the Local Pension Board and Pensions Sub-Committee meetings.
- Put a project plan in place to complete the remedy work. This should document the key milestones and set out the reasons for any delay, the likely impact and the steps that are being taken to mitigate further delays.
- Mention the reasons for the delay in the ABS and notify the Pensions Regulator.
- Ensure that information about any pension software issues and their potential impact is considered in the risk register.

Pension Ombudsman Determination

3.2.25 Mr L complained about the City of Wolverhampton Council's decision to pay Mrs R's death grant to her nominee. The Pension Ombudsman upheld the Council's decision as it had considered all the potential beneficiaries, it had absolute discretion under the regulations, and the decision was not perverse.

SAB statement on 2025 Valuation

3.2.26 The Scheme Advisory Board (SAB) has issued a statement on 28 May 2025 providing guidance to funds for the 2025 Valuation exercise with the aim of assisting AAs and fund actuaries to manage the valuation process, balancing the expectations that different stakeholders will have, improving consistency of the risks considered in setting funding strategies, increasing the transparency of decision making and how this affects outcomes.

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

Corporate Director, Finance and Resources