

**SCHEME ADVISORY BOARD [SAB]****New Projects Included in 2018/19 Work plans**

Improving member data to meet the Pensions Regulator requirements	<p>Project will aim to assist administering authorities in meeting the Pension Regulators requirements for monitoring and improving data. This project would include the identification of scheme specific conditional data and the production of guidance for authorities and employers.</p> <p>SAB are to release guidance as to what constitutes “conditional information” in time for authorities to complete TPR return. Authorities have been advised to complete information as last year and any guidance will now be operative from 2019</p>	<p>On agenda for SAB meeting on 28 June 2018</p> <p><a href="http://www.lgpsboard.org/index.php/about-the-board/prev-meetings">http://www.lgpsboard.org/index.php/about-the-board/prev-meetings</a></p>
Identifying regulations requiring statutory guidance and the drafting of such guidance	It is anticipated that MHCLG will propose a project to identify regulations which may be better sited within statutory guidance and to both propose the necessary amendments and assist with the drafting of guidance.	
Identifying the potential benefits of further increasing the level of separation between the host authority and scheme manager role.	The separation project was put on hold while pooling was in its initial stages however a request has been made to reinstate the project. The objective would be identify both the issues deriving from the current scheme administrative arrangements and the potential benefits of further increasing the level of separation between host authority and the scheme manager role.	<p><b>21st August 2018</b></p> <p>Scheme Advisory Board opens invitation to bid, "Options for separation of host authority and pension fund". Following a report by KPMG examining the issues and challenges of separating the pension's functions of LGPS, the next stage is to see how the recommendations that emerged from the report could be made to work. For more information and instructions on how to bid, please see the <a href="#">invitation to bid page</a>.</p>

### Existing Projects to Continue into 2018-19

<p>Academies</p>	<p>Ministers agreed that DFE, MHCLG, GAD and the Board should continue to work closely together to pursue solutions, engaging key stakeholders including pension funds, actuarial firms and academy trusts as appropriate.</p> <p>Two working groups have been set up Administration and Funding</p> <p><b>Administration</b> This group has focussed on 4 key areas :-</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> More consistency in pensions administration</li> <li><input type="checkbox"/> More effective communication</li> <li><input type="checkbox"/> Improved training at local, regional and national level, and</li> <li><input type="checkbox"/> Clarifying the duties and responsibilities of stakeholders</li> </ul> <p><b>Recommendation at the SAB meeting</b> That SAB notes the work of the administration working group to date and approves the continuation of the sub-groups work to formulate a universal monthly data extract for future consultation with key stakeholders</p> <p><b>Funding</b> The funding working group is exploring proposals to standardise conversion methodologies, move to single future service rates within each LGPS fund and to better enable MATS to consolidate their schools in one LGPS fund.</p> <p>An option to achieve these objectives from the group was to be discussed at the meeting of the DFE academy working group on 20th June.</p> <p>It is important to note that the above does not meet the DFE primary aim of a common academy rate across funds and therefore they may wish to consider if the benefit of moving to a common rate within funds is something they wish to pursue.</p>	<p><a href="http://www.lgpsboard.org/index.php/structure-reform/review-of-academies">http://www.lgpsboard.org/index.php/structure-reform/review-of-academies</a></p>
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Academies (cont)	<p><b>Recommendation at SAB meeting</b></p> <p>SAB notes the work of the funding working group to date and agrees that subject to the feedback from DFE continues to develop the option outlined above.</p> <p>SAB will then consider reports before submitting its recommendations to Ministers for their consideration.</p>	
Tier 3 employers	<p>Covers those Fund employers with no tax raising powers or guarantee. SAB is keen to identify the risk to LGPS Funds of default by such employers.</p> <p>There are currently two concurrent phases of work involved – Collating data and identification of issues.</p> <p>SAB tier 3 employer project carried out by Aon Hewitt– extension of surveys deadline to 31 January 2018 APF have completed survey</p> <p>SAB will then assess the risks to Funds and consider next steps.</p>	<p><a href="http://www.lgpsboard.org/index.php/board-publications/invitation-to-bid">http://www.lgpsboard.org/index.php/board-publications/invitation-to-bid</a></p> <p>Once Aon Hewitt have analysed the information received they will put forward their draft report for consideration at the Board meeting on the 27th June 2018.</p>
Cost of Transparency compliance system procurement	<p>The Board has committed to securing a third party checking service</p> <p>Links to from SAB item are given here</p>	<p>On agenda for SAB meeting on 28 June 2018</p> <p><a href="http://www.lgpsboard.org/images/PDF/BoardJune2018/ITEM6_PaperD_CofTransparency_compliance_system_procurement.pdf">http://www.lgpsboard.org/images/PDF/BoardJune2018/ITEM6_PaperD_CofTransparency_compliance_system_procurement.pdf</a></p> <p><a href="http://www.lgpsboard.org/images/PDF/BoardJune2018/ITEM6_PaperD_ANNEX1_ComplianceSystemspecificationV1.pdf">http://www.lgpsboard.org/images/PDF/BoardJune2018/ITEM6_PaperD_ANNEX1_ComplianceSystemspecificationV1.pdf</a></p>
SAB obtain QC's opinion on the pensions responsibilities of local authority owned companies [EOC]	<p>The Scheme Advisory Board for the LGPS in England and Wales have obtained a Counsel opinion on scheme employer wholly owned companies (EOCs). Link to Opinion included here</p> <ul style="list-style-type: none"> <li>Whether the Best Value Authorities Staff Transfers (Pensions) Direction 2007 applies to the transfer of employees from a local</li> </ul>	<p><a href="http://www.lgpsboard.org/images/Guidance/QC_Opinion_April_2018_Employer_Owned_Companies.pdf">http://www.lgpsboard.org/images/Guidance/QC_Opinion_April_2018_Employer_Owned_Companies.pdf</a></p>

QC opinion [EOC]	<p>authority to a local authority EOC.</p> <ul style="list-style-type: none"> <li>• Whether the non-statutory Fair Deal guidance issued by HM Treasury in October 2013 applies to the transfer of employees from an academy to an academy EOC.</li> <li>• Whether EOCs meet the requirements of paragraphs 5 or 6 of part 2 of schedule 2 of the LGPS Regulations 2013.</li> <li>• The protections available to employees transferring under TUPE in relation to pensions, and the obligations placed on employers with regard to the provision of pensions.</li> <li>• The situation if an employer to offer different schemes to different employee groups.</li> </ul> <p>In addressing the final bullet point, Counsel states: This would be highly likely to contravene equal pay legislation. EOC employees would be comparators with each other and with the authority's retained employees.”</p> <p>LGA understand that this does not mean that an employer would automatically be contravening equal pay legislation if it offered the staff it employed directly a different pension scheme to the staff it employed via an EOC. The usual potential defences could still apply, such as the material factor defence and whether a comparator is still a valid one in the particular circumstances of the case.</p>	
Cross Pooling	<p>In February 2018 SAB approved an elected member led Cross Pool Forum comprising three representatives from each of the eight pools and three trade union representatives to share and disseminate information on the pooling of LGPS assets and steps are being be taken to establish this</p> <p>As a result of the responses to the consultation on 27th March 2018 the Chairs of LGPS pension committees and local pension boards attended an open session where representatives from the eight asset pools reported on their progress in establishing their organisational structures and governance arrangements.</p>	<a href="http://www.lgpsboard.org/images/PDF/Publications/Cross_Pool_Open_Forum_main_slide_pack.pdf">http://www.lgpsboard.org/images/PDF/Publications/Cross_Pool_Open_Forum_main_slide_pack.pdf</a>

# MINISTRY FOR HOUSING COMMUNITIES and LOCAL GOVERNMENT [MHCLG]

Local Government Pension  
(Amendment) Regulations 2018  
LGPS  
Regulations:

Amendment Regulations with  
Best Value & Fair Deal  
consultation and freedom and  
Choice options

The original consultation on the draft regulations in May 2016 covered operational amendments to clarify areas of uncertainty within the original 2013 regulations

Main changes

Inclusion of Exit Payment where Employer leaves Fund with a surplus

Change to allow members from previous regulations to elect for immediate benefits without employer consent if aged between 55 and 60 (subject to any other restrictions)

Harmonise position regarding AVC contracts that commenced pre 1 April 2018

## **But not brought forward from the draft**

Simplifying aggregation so automatic transfer with 12 months to keep separate has been maintained. [The proposed change in the draft is contrary to the Public Services Pensions Act 2013 on the final salary link]

Best Value and Fair Deal for the transfer of staff is to be brought forward at later date..

Changes to regulations for Freedom and Choice despite numerous discussions with AVC providers will not be processed further and members will have to transfer out any AVC to take up any drawdown provision. [It would create substantial administrative complexities, primarily due to difficulties standardising procedures among a large number of AVC providers]

The regulation changes to allow early payment of benefits without employer consent before age 60 did result in an unintentional consequence for some deferred members who left before 1 April 1998 where some would lose a previous right to receive their benefits at age 60 [see over on right]  
MHCLG have confirmed that this will be addressed within future amendments

<http://www.legislation.gov.uk/ukxi/2018/493/contents/made>

Government response to consultation  
<https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations>

	<p>but following a request from Technical Group have released a statement setting out the intention of what the amendment should have provided</p> <p>The request was made in view of the fact that the amendment regulations corrected at least 15 regulations where authorities had been applying the intended interpretation</p> <p>Administering Authorities to decide on how this provision will be administered in the interim</p> <p>This was discussed at the SW Pension Officers Group with LGA representative in attendance and it was unanimously agreed to follow the intention of the regulations pending further amendments</p>	<p>In Scotland when a recent regulation drafting error was made the Minister simply issued a "Letter of Comfort" as authority to act on until regulations changed</p>
Insolvency regime for further education and sixth form colleges technical consultation	<p>In July 2016 the Department for Business, Innovation and Skills (BIS) published a consultation to develop an Insolvency Regime for the Further Education and Sixth Form College Sector, this was later taken over by the Department of Education [DFE].</p> <p>LGA responded to the consultation raising concerns that all steps are taken to prevent any risk arising that the pension liability of a college falls on to other employers in an LGPS fund, and ultimately the taxpayer.</p> <p>Technical and Further Education Act 2017 set out the framework for an insolvency regime, which applies aspects of existing insolvency law to further education and sixth form colleges in England and Wales. A further consultation (which opened on 18 December 2017 and closed on 12 February 2018) from the DFE, seeks views on the technical detail of the insolvency regime and sets out proposals as to how colleges at risk of (or in) insolvency will be dealt with in practice. It also outlines plans to further improve monitoring and support available to colleges in financial difficulty.</p>	<p>Technical and Further Education Act 2017  <a href="http://www.legislation.gov.uk/ukpga/2017/19/contents">http://www.legislation.gov.uk/ukpga/2017/19/contents</a></p> <p>Consultation  <a href="https://consult.education.gov.uk/fe-college-quality-and-resilience-team/fe-insolvency-regime/">https://consult.education.gov.uk/fe-college-quality-and-resilience-team/fe-insolvency-regime/</a></p>
<p>Co habiting Partners Update</p> <p>Elmes v Essex CC (Brewster)</p>	<p>The Brewster court case in Northern Ireland declared that  <i>"The requirement to nominate a person under regulations 24 and 25 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 is incompatible with Article 1 of the first Protocol to, and Art 14 of, the European Convention on Human Rights and must therefore be disapplied"</i>.</p> <p>This effectively removed the requirement for a member to have provided a nomination form before their death, for their a partner who meets the definition of co-habiting partner set out in the LGPS Regulations to be entitled to a</p>	<p>Elmes v Essex CC confirmed that the decision made in Brewster had similar effect in England and Wales</p>

	<p>partner's pension.</p> <p>Cases within the period 1 April 2008 to 1 April 2014 to be reassessed 12 such cases have been identified and letters sent to the potential respective partners. The 2013 scheme regulations did not have this restriction</p>	
GAD; LGPS Factor Tables	<p>MHCLG and GAD are reviewing all tables due to another change in the scape rate. It is understood that GAD intend to make the tables unisex.</p> <p>Target time is 6 – 9 months</p>	

## HM TREASURY

Pensions scams: consultation	<p>Awaiting response to consultation</p> <p>Government Response issued August 2017 outlines key areas</p> <p>a ban on cold calling in relation to pensions, to help stop fraudsters contacting individuals</p> <p>limiting the statutory right to transfer to some occupational pension schemes</p> <p>making it harder for fraudsters to open pension schemes</p>	<p><a href="https://www.gov.uk/government/consultations/pension-scams/pensions-scams-consultation">https://www.gov.uk/government/consultations/pension-scams/pensions-scams-consultation</a></p> <p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/638844/Pension_Scams_consultation_response.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/638844/Pension_Scams_consultation_response.pdf</a></p>
Indexation and equalisation of GMP in public service pension schemes	<p>APF responded to consultation in Feb 2017</p> <p>On 22 January 2018, HMT published its response to the consultation.</p> <p>The government has been implementing an “interim solution” between 6 April 2016 and 5 December 2018. The consultation directs that this solution will be extended for a further two years and four months. This will cover those members of public service schemes with a GMP who reach state Pension Age on or after 6 December 2018 and before 6 April 2021.</p>	<p>HMRC to set up working group in 2019</p>

	<p>During this period, the government will investigate the possibility of an alternative long-term methodology, known as “conversion”.</p> <p>Government Actuary has issued an addendum to the guidance for Transfer and Divorce calculations</p>	
Reforms to public sector exit payments: response to the consultation	<p>Further clarification on the claw back for re-employment in first year and setting the exit cap at £95k are still awaited Work is going on behind the scenes and subject to Parliamentary time these could be issued by the end of the year</p> <p>The third more broader proposals in the third consultation no immediate development on these has been reported</p> <p>A Private Member’s Bill the Public Sector Exit Payments (Limitations) Bill 2017 was introduced in Sept 2017 and its further rescheduled second reading is set for OCT 2018; to date no details have been made available</p>	<p><a href="https://www.gov.uk/government/consultations/further-consultation-on-limiting-public-sector-exit-payments">https://www.gov.uk/government/consultations/further-consultation-on-limiting-public-sector-exit-payments</a></p> <p><a href="http://www.legislation.gov.uk/uksi/2017/70/pdfs/ukxi_20170070_en.pdf">http://www.legislation.gov.uk/uksi/2017/70/pdfs/ukxi_20170070_en.pdf</a></p> <p><a href="#">Bill stages — Public Sector Exit Payments (Limitation) Bill 2017-19 — UK Parliament</a></p>

## THE PENSION REGULATOR (TPR)

Proactive engagement with LGPS funds planned for 2018 and 2019	<p>The Pensions Regulator’s (TPR) Corporate Plan for 2018-2021 at page 18 includes three new Key Performance Indicators (KPIs) directly related to public service pension schemes. Following the publication of these new KPIs TPR has chosen the Local Government Pension Scheme as a cohort for proactive engagement throughout 2018 and 2019.</p> <p>TPR has chosen Local Government schemes because, in their view, the results of the 2017 Governance &amp; Administration Survey show that improvements in governance &amp; administration standards have slowed when compared to other public service pension schemes.</p> <p>Over the coming months, all LGPS scheme managers will receive written communications from TPR (and others involved with LGPS may also hear from TPR). These will cover governance &amp; administration matters including:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the main risk areas scheme managers should already be focusing on</li> </ul>	It is anticipated that up to ten administering authorities will be visited during the period
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	<p> <input type="checkbox"/> what TPR's expectations are  <input type="checkbox"/> how those responsible for managing and running schemes can identify and mitigate such risks </p> <p>TPR have asked that the message below is conveyed to all LGPS administering authorities.</p> <p><i>"We highly recommend that scheme managers and pension board members carefully consider the messages given. It is essential to have robust governance and administration in place for your scheme. However, it must be noted that there are no new expectations from us. All of the areas are already covered in TPR's Code of Practice 14 for Public Service Pension Schemes, and the associated guidance.</i></p> <p><i>If you haven't already, we recommend that you complete TPR's Public Service toolkit to learn about managing public service pension schemes and to increase your knowledge and understanding.</i></p> <p><i>We will engage further with a small number of scheme managers to undertake deeper regulatory engagement into each risk area, to understand what the current status is, the challenges scheme managers face, the extent of mitigation and improvement plans and how they are being implemented.</i></p> <p><i>Good scheme governance &amp; administration is a key factor to achieving positive outcomes for members. TPR will use its discretion in deciding whether it is appropriate to carry out further investigations and use its powers in situations where failings are identified."</i></p>	
TPR provides guidance for trustees setting and monitoring investment strategies PN17-12 [30/03/2017]	<p>As part of its strategy to produce simpler guidance for occupational pension schemes, The Pensions Regulator (TPR) has recently published new investment guidance for trustees.</p> <p>The guidance was developed for trust-based DB schemes and is not explicitly for LGPS funds, but some of the principles will apply to LGPS funds so they may wish to consider it as appropriate.</p>	<a href="http://www.thepensionsregulator.gov.uk/press/pn17-12.aspx">http://www.thepensionsregulator.gov.uk/press/pn17-12.aspx</a>
Public Sector pensions website update	The Regulator dedicated public sector web pages provides a wealth of information regarding its Code of Practice 14 and public service toolkit. The toolkit which provides a foundation to effective scheme governance and administration has been updated and additional guides and checklist published	<a href="http://www.thepensionsregulator.gov.uk/public-service-schemes.aspx">http://www.thepensionsregulator.gov.uk/public-service-schemes.aspx</a>

## FINANCIAL CONDUCT AUTHORITY (FCA)

CP16/29: Markets in Financial Instruments Directive II	<p>The FCA has set the opt up criteria to take the LGPS decision making characteristics into account. The opt up template for LGPS funds has been issued. APF have opted up</p> <p>New MiFIDII Q &amp; A - A Questions and Answer document has been developed to assist LGPS funds and managers to effectively deal with new relationships post January 2018 when local authorities are default retail clients including conversations at conferences. The document can be found on the MiFIDII home page .</p>	
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## ITEMS FROM OTHER SOURCES

DWP commence consultations	<p>On 18<sup>th</sup> June 2018, DWP commenced a consultation entitled <i>Pension trustees: clarifying and strengthening investment duties</i>.</p> <p>The consultation seeks views on the draft Occupational Pension Schemes (Investment and Disclosure) (Amendment) Regulations 2018 and does not contain proposals which would directly impact the LGPS, as it covers trust-based pension schemes alone. However, the draft regulations have been consulted upon to tackle issues that also affect the LGPS and we understand the Scheme Advisory Board for England and Wales intend to respond to the consultation.</p>	
European Court	<p><b>European Court of Justice ruling on transgender rights</b></p> <p>The European Court of Justice has ruled in favour of a transgender woman who was refused payment of her UK state pension in 2008 at age 60 (on the grounds that she did not have a Gender Recognition Certificate (GRC)).</p> <p>The LGPS Secretariat will provide further information regarding the impact of this case for the LGPS in a future bulletin.</p>	
DWP: Pension's Dashboard	<p><b>Pensions dashboard – results of feasibility study delayed</b></p> <p>In bulletin 167, we reported that DWP were conducting a feasibility study to explore the options for delivering the dashboard and that this was due to be published at the end of March 2018.</p> <p>The findings of this feasibility study have still to be published. Given it is now less than a year until the dashboard was originally due to launch (in April 2019), this would appear to make these timescales increasingly difficult to achieve.</p>	

Those highlighted in Grey are those previously reported but no further developments or updates have occurred