

Councillor Roger Phillips  
Chair LGPS Scheme Advisory Board  
18 Smith Square  
Westminster  
London  
SW1P 3HZ

**Date:** 19 November 2018

Dear Councillor Phillips ,

I am writing as Chair of the South West Area Pension Officers Group. This includes Cornwall, Devon, Somerset, Dorset, Avon, Wiltshire and Gloucester pension funds.

The Local Pension Officer Groups were asked to consider how rectification could be achieved following the GMP reconciliation exercise.

Whilst other public sector schemes have been directed on a scheme basis the LGPS Funds are required to individually decide a course of action.

It is expected that a number of members will be found to have been overpaid pensions as a result of both DWP and the pension fund paying pension increases on the GMP element.

These likely overpayments will, in some cases, have accrued over a number of years with the higher overpayments occurring on those who reached State Pension Age [SPA] 25-30 years ago.

The reason for this higher overpayment is that the GMP in these cases is predominantly on a GMP accrued pre 1988 where full indexing is the responsibility of the State and the incorrect pension has then built up over the long period since SPA.

This means that any rectifications made on these higher overpayments will affect members who are aged 80 and above.

It is likely that some of these member's pensions are currently being overpaid in excess of £100 per month.

This has left Administering Authorities with a dilemma of any potential rectifications.

On the one hand they need to consider the fact that this is money from Public Funds and on the other the sensitivity towards those affected. Appeals to the Pensions Ombudsman would almost certainly follow with adverse publicity that would result.





Either way there would be reputational damage to the public sector arising from any decision on rectification.

The South West Area Pension Officers Group met on 2 October 2018 to discuss the issues of rectification and the various options available. The intention was to come to a collective approach on the way forward in this matter.

Authorities put forward their proposed options, one had gone to Committee but before approving any course of action the Committee had requested that other Funds be consulted to see if a collective approach could be agreed.

When going through the options it soon became apparent that there was no easy solution

Appendix 1 sets out the various options and pros and cons involved

The problems ranging from

- Potential rectification of records both on administration and payroll
- Notifications to all affected members who would need to be able to understand the GMP process and what had occurred with a sensitivity around any recovery on overpayments and pension reductions
- Furthermore there could be difficulties if a member was affected in two separate Funds and the decision on rectifying was different.
- References were even made to at least one authority, not in the South West, that had decided not to engage with the reconciliation and would thus avoid such problems.

It was agreed that the overpayments to date should be written off.

The discussion on a solution regarding rectification of current pensions where any overpayment was occurring produced various options but no definitive answer.

The decisions made in Scotland were also discussed where The Scottish LGPS are making use of regulation 14(5) Registered Pension Scheme (Authorised Payments) Regulations 2009 and their scheme rules are to be amended The GMP related overpayment would be converted into an 'increased pension entitlement' which will continue to be increased.

No similar action is forthcoming regarding LGPS[England and Wales] as to be allowed to go down this route would require agreement from HM Treasury.



Funds are in a no win situation and are then all setting out their own rectification programme.

The main consensus of the SWAPOG meeting was that along with other public sector schemes a consistent approach should be made at a national level so that all Funds in England and Wales have a definitive course of action that is constant throughout the LGPS. This would remove decisions being made at local levels.

The Scheme Advisory Board / MHCLG are requested to make representations to HM Treasury to see if the Scottish approach is one that could be adopted by LGPS [E&W]

If this solution is not possible then can Funds be notified as to how such rectifications should be address so that the whole of LGPS (E & W) have a uniform approach like all other public sector schemes and not be in a position that numerous decisions are made across the scheme. This notification should include guidance on how authorities should address any repercussions that arise.

Yours sincerely



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## Appendix 1

### Rectification of GMP overpayments options

The prospective options would appear to be as follows:-

	Recover Overpayment	Adjust monthly overpaid rate	Comments	
			Pros	Cons
1	Yes	Yes	Rectifies overpaid public monies and future overpayments	Reputational Damage
2	No	Yes	Rectifies any future overpayment of public monies	Potential appeals Reputational Damage Eg. Taxpayers Alliance Possible numerous appeals Media coverage of “reducing a vulnerable person’s pension” and the “potential stress caused as a result”
3	No	Freeze current levels until catches up with correct level	Goes part way to appeasing both sides	Whilst protecting against future increases the current level would still mean further overpayments  Legality position required Tax implications
4	No	No	Would be good from a reputational position by avoiding any alarm in a very sensitive section of the membership	This could again be subject to possible appeal claims Increased administration in monitoring such cases Contrary to legal position Tax implications Although it would be usual to rectify some other public sector schemes have been reported as having taken a decision to ignore and write off these payments.

It is accepted that where an underpayment is found that this would be rectified accordingly

If it is decided that future pension rates must be changed then option 3 was the group’s preferred option



