

List of current developments affecting or expected to affect Scheme Administration

NOV 2018

SCHEME ADVISORY BOARD [SAB]

Cost Cap Controls	<p>Board members were provided with a summary of the statement made by the Chief Secretary to the Treasury on the 6th September regarding the scheme valuations for the public service pension schemes, including the LGPS.</p> <p>Unfunded schemes,</p> <p>A reduction in the discount rate that will significant increases employer contributions The 2% cost cap floor breached leading to member benefits improvements.</p> <p>Funded Scheme LGPS</p> <p>The 2% cost cap floor breached but discount rate does not directly impact employer rates</p> <p>LGPS, employer rates are set by local fund valuations (next in 2019) but the cost cap mechanism does potentially impact.</p> <p>SAB has its own cost management which will allow any changes to benefits to be taken into account before the HM Treasury process begins</p> <p>As advised by the Board's actuarial adviser, the total cost of the scheme (employer and employee) under the Board's process is 19% against a target total scheme cost of 19.5%.</p> <p>SAB agreed to delegate to the Chair and a representative from both the employers and employees' sides, assisted by a small technical group, responsibility for agreeing a package of benefit changes to return the scheme to its total target cost of 19.5% while also looking at employee contributions at the lower end. The resultant package will be put to the full Board for agreement as soon as possible to ensure that scheme changes are on the statute book by April 2019.</p>	<p>Note released on outcome of SAB meeting 10 October 2018</p> <p>http://www.lgpsboard.org/index.php/board-publications</p> <p>Future Scheme Valuations</p>
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	<p>The Board was also advised that discussions are underway to move local fund valuations to a quadrennial timeframe to ensure consistency with future scheme valuations. This will not, however, have any bearing on the 2019 valuation which will proceed as normal.</p>	<p>Link to Written Ministerial Statement of the Chief Secretary to the Treasury, Elizabeth Truss see under HM Treasury</p>
<p>Projects in Service Plan for 2018/19</p>		
<p>Improving member data to meet the Pensions Regulator requirements</p>	<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>Identifying regulations requiring statutory guidance and the drafting of such guidance</p>	<p>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.</p> <p>[See MHCLG section draft amendment]</p>	
<p>Identifying the potential benefits of further increasing the level of separation between the host authority and scheme manager role.</p>	<p>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> <p><u>Discussed and agreed at SAB meeting 10 Oct 2018</u></p> <ul style="list-style-type: none">• Three bids received to undertake the project• Board members invited to comment on the bids• SAB Chair and Vice-Chair given delegated authority to make final decision	

Existing Projects to Continue into 2018-19		
Academies	<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>Administration This group has focussed on 4 key areas :-</p> <ul style="list-style-type: none"> <input type="checkbox"/> More consistency in pensions administration <input type="checkbox"/> More effective communication <input type="checkbox"/> Improved training at local, regional and national level, and <input type="checkbox"/> Clarifying the duties and responsibilities of stakeholders <p>Funding 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>http://www.lgpsboard.org/index.php/structure-reform/review-of-academies</p>
GAD Report on Academies	<p>GAD issued its report for Academies LGPS pension arrangements on 14 Sept 2018</p> <p>On average academies currently pay 2% of payroll less in contributions than local authorities (LAs) - 21% versus 23%, respectively - despite being 11% worse funded on average (73% versus 84%, respectively).</p> <p>No recommendations but suggest that DfE and MHCLG consider what changes to academy pension arrangements within the LGPS might be appropriate in order to meet policy objectives. It should be noted that, if changes to the current arrangements are not made, we would expect material volatility in academy contribution rates (against local authority rates and other academies) to persist.</p>	<p>Full GAD report</p> <p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740947/Academies_analysis_report_final.pdf</p>

	<p>Discussed/agreed at SAB meeting 10 Oct 2018</p> <ul style="list-style-type: none"> • The Board agreed that the administration working groups work on agreeing a standard monthly data extract should continue to completion • Further work will also be undertaken on training and improving communication within the academy sector • The future programme of the funding working group is to be the subject of discussion with DfE and MHCLG 	
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>Discussed / agreed at SAB meeting 10 Oct 2018</p> <ul style="list-style-type: none"> • Aon's report was published on the 24th September • A working group from the Board will evaluation the various options included in the report and report back to the Board 	
Cost of Transparency compliance system procurement	<p>The Board has committed to securing a third party checking service</p> <p>Discussed at SAB meeting 10 Oct 2018</p> <ul style="list-style-type: none"> • 91 Signatories have signed up to the code covering £180bn of scheme assets • OJEU contract notice has been published for the procurement of a code compliance utility 	

<p>SAB obtain QC's opinion on the pensions responsibilities of local authority owned companies [EOC]</p> <p>QC opinion [EOC]</p>	<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"> • Whether the Best Value Authorities Staff Transfers (Pensions) Direction 2007 applies to the transfer of employees from a local authority to a local authority EOC. • 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. • Whether EOCs meet the requirements of paragraphs 5 or 6 of part 2 of schedule 2 of the LGPS Regulations 2013. • 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. • The situation if an employer to offer different schemes to different employee groups. • <p>In addressing the final bullet point, Counsel states:</p> <p>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>	<p>http://www.lgpsboard.org/images/Guidance/QC_Opinion_April_2018_Employer_Owned_Companies.pdf</p>
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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>	http://www.lgpsboard.org/images/PDF/Publications/Cross_Pool_Open_For_um_main_slide_pack.pdf
Responsible Investment	<p>Agreed at SAB 10 Oct 2018</p> <ul style="list-style-type: none"> SAB agreed that the guidance on Responsible Investment should include reference to the government's latest position on Environmental, Social and Governance (ESG) and, in particular, climate risk. SAB was advised that Share Action may be approaching LGPS funds to discuss their approach to ESG policies. 	
The Pension Regulator	<p>Agreed at SAB 10 Oct 2018</p> <ul style="list-style-type: none"> Further to concerns raised by a number of funds, SAB agreed that the Chair should write to the Pensions Regulator about their activities and approaches in dealing with the scheme. The Pensions Regulator has advised the SAB's Chair that the annual Governance and Administration survey will be issued to fund authorities on the 5 November with completion requested by the end of the month. A preliminary note from the Pensions Regulator will be sent to funds beforehand. 	
MINISTRY FOR HOUSING COMMUNITIES and LOCAL GOVERNMENT [MHCLG]		
Local Government Pension (Amendment) Regulations 2018	<p>The original consultation on the draft regulations in May 2016 covered operational amendments to clarify areas of uncertainty within the original 2013 regulations</p>	<p>http://www.legislation.gov.uk/uksi/2018/493/contents/made</p> <p>Government response to consultation https://www.gov.uk/government/consultations/local-government-pension-</p>

<p>LGPS Regulations:</p> <p>Amendment Regulations with Best Value & Fair Deal consultation</p> <p>October 2018 Policy Consultation and Draft Regulations</p>	<p>Main changes</p> <p>Exit Payment where Employer leaves Fund with a surplus</p> <p>Change to allow all deferred members to elect for immediate benefits without employer consent if aged between 55 and 60 (subject to any other restrictions)</p> <p>All AVC contracts are harmonised pre and post 1 April 2018</p> <p>Best Value and Fair Deal for the transfer of staff is to be brought forward at later date.. Provisionally by end of 2018 but subject to parliamentary time.</p> <p>The MHCLG have issued both a policy consultation [LGPS: Technical amendments to benefits] and draft regulations have been issued to a select group These cover the following</p> <ul style="list-style-type: none"> • Amend the unintentional consequence of the amendment regulations in May 2018 regarding deferred members before 1 April 1998 voluntarily drawing their pension from age 55. This is expected to be backdated to the previous amendment date. • To amend the regulations in respect of benefits payable to same-sex married or civil partners as a result of the Supreme Court judgment in the case of Walker v Innospec Instead of being entitled to the same benefits as widowers it legislates that they should be entitled to the same as widows. • To allow the Secretary of State the power to issue statutory guidance. The proposed changes to the scheme, is to accommodate judgments made and to give some flexibility to respond to future developments. The Department's view had no legal force as the Secretary of State has currently no power to issue statutory guidance <p>A response will be sent from APF by the closing date of 29 November 2018 Comments on the draft regulations are required earlier by 16 November 2018</p>	<p>scheme-regulations</p> <p>http://lgpslibrary.org/assets/cons/lgpsew/20181004.pdf</p> <p>http://lgpslibrary.org/assets/cons/lgpsew/20181004.pdf</p>
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<p>Insolvency regime for further education and sixth form colleges technical consultation</p>	<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 http://www.legislation.gov.uk/ukpga/2017/19/contents</p> <p>Consultation https://consult.education.gov.uk/fe-college-quality-and-resilience-team/fe-insolvency-regime/</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 partner’s pension.</p>	<p>Elmes v Essex CC confirmed that the decision made in Brewster had similar effect in England and Wales</p>
<p>LGPS S13 review: 2013 to 2016</p>	<p>The Government Actuary has reported that in aggregate the Local Government Pension Scheme is in a strong financial position and funds have made significant progress since the 2013 valuation based on the criteria.</p> <p>The report highlights:</p> <ul style="list-style-type: none"> total assets for the Local Government Pension Scheme have grown from £180 billion to £217 billion aggregate funding level has improved from 79% to 85%, due in part to better than expected returns on assets and strong returns have continued total employer contributions received were £6.9 billion per annum on average of which circa £2 billion per annum were deficit recovery payments 	<p>Full report</p> <p>https://www.gov.uk/government/publications/local-government-pension-scheme-review-of-the-actuarial-valuations-of-funds-as-at-31-march-2016</p>

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GAD; LGPS Factor Tables	MHCLG and GAD are reviewing all tables and due to another change in the scape rate, announced there may be a delay in issuing these. It is understood that GAD intend to make some tables unisex.	The expected introduction of new factors will be the same as the budget and GAD have advise that they may be at least 6 weeks late so stockpiling will be necessary for Transfers
SF3 Return	The 2017/18 SF3 return data was published by MHCLG on the 17th October	
HM TREASURY		
Pensions scams: consultation	<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 making it harder for fraudsters to open pension schemes</p>	<p>https://www.gov.uk/government/consultations/pension-scams/pensions-scams-consultation</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/638844/Pension_Scams_consultation_response.pdf</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>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>	<p>HMRC to set up working group in 2019</p> <p>There has been a decision made in a court case against Lloyds Bank which has attracted media interest. HM Treasury have confirmed that for Public Sector Schemes this matter is being dealt by the method outlined in the consultation response in Jan 2018 as stated here</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 but most likely in the new year</p>	<p>https://www.gov.uk/government/consultations/further-consultation-on-limiting-public-sector-exit-payments</p> <p>http://www.legislation.gov.uk/ukxi/2017/70/pdfs/ukxi_20170070_en.pdf</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 26 OCT 2018; to date no details have been made available</p>	Bill stages — Public Sector Exit Payments (Limitation) Bill 2017-19 — UK Parliament
Scheme Valuations	<p>On 6 September 2018, in a Written Ministerial Statement the Chief Secretary to the Treasury, Elizabeth Truss, announced details of the quadrennial national scheme valuation of public service pension schemes.</p>	https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-09-06/HCWS945/

THE PENSION REGULATOR (TPR)

<p>Proactive engagement with LGPS funds planned for 2018 and 2019</p>	<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 & Administration Survey show that improvements in governance & 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 & administration matters including:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the main risk areas scheme managers should already be focusing on <input type="checkbox"/> what TPR's expectations are <input type="checkbox"/> how those responsible for managing and running schemes can identify and 	<p>For Page 18 of Corporate Plan see</p> <p>http://www.thepensionsregulator.gov.uk/docs/corporate-plan-2018-2021.pdf</p> <p>It is anticipated that up to ten administering authorities will be visited during the period</p> <p>Local authorities have been approached but none to date in the South West Region</p>
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	mitigate such risks	
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>	http://www.thepensionsregulator.gov.uk/pres/pn17-12.aspx

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 &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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CIPFA

KPIs	Nothing received so far	
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ITEMS FROM OTHER SOURCES

DWP commence consultations	<p>On 18th 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>	
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European Court	<p>European Court of Justice ruling on transgender rights</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 LGPC Secretariat will provide further information regarding the impact of this case for the LGPS in a future bulletin. No further information received</p>	<p>This matter was discussed at the South West regional meeting and because of the complex and sensitive nature required the consensus was that once full details were received that a collective approach may be beneficial</p>
DWP: Pension's Dashboard	<p>Pensions dashboard – results of feasibility study delayed</p> <p>In bulletin 167, it was 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> <p>There have been some mixed opinions raised as to whether this is still achievable but the Department has recently confirm that it remains a key objective</p>	

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