List of current developments affecting or expected to affect Scheme Administration – 31 August 2021

Organisation	Item	Details	Status
HMT / MHCLG	**Public Sector Exit Payments Cap / Consultation on Further Reform to Exit Payments**	**Risk Register Item – R53** **Latest Updates:-** **On 2 July 2021,** following a request for data from local authorities in April 2021, MHCLG published its first summary of exit payment data covering 2019-20 and 2020-21. Initial indications are that the average exit payment made in 2020-21 across local authorities was £26,000 including pension strain. Further details can be found here. **Also, on 2 July 2021,** Although not directly linked to the exit payments cap, MHCLG commenced a consultation on statutory guidance in respect of "special severance" payments that apply to local authorities i.e. over and above statutory entitlements. The consultation ended on 13 August 2021 and an outcome is awaited. A copy of the LGA's response to the consultation can be found here. **Previous Updates:-** **On 9 April 2021,** MHCLG wrote to chief financial officers, of councils and combined authorities, letting them know about a new requirement to provide data on exit payments. Councils will be asked to provide data on all redundancy payments, pension strain payments and other special payments made in consequence of an exit for 2014/15 to 2020/21 by the end of May 2021. The data will be used to inform delivery of the Government's policy to end excessively high exit payments in the public sector. **On 12 February 2021,** HMT published the Exit Payment Cap Directions 2021 disapplying parts of the Restriction of Public Sector Exit Payment Regulations 2020 with immediate effect, meaning the exit cap no longer applies to exits that take place on or after 12 February 2021. HMT expects employers to pay the additional sums that would have been paid, had the exit cap not applied in respect of employees who left between 4 November 2020 and 11 February 2021. On 25 February 2021, The Restriction of Public Sector Exit Payments (Revocation) Regulations 2021 were made and laid before parliament and will come into force on 19th March 2021. These	**Updated**

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		regulations confirm the effect of the disapplication Directions made on the 12th February 2021 but are not retrospective. Despite this revocation, the Government remains committed to implementing reforms to public sector exits which will have the aim of ending excessive payments and bringing practice more in line with the private sector. We understand that MHCLG plans to introduce further changes to exit payments following the recent MHCLG consultation on reforming local government exit pay, however, they will consult again on any further reforms to exit payments before any changes are made. The Government has not confirmed when the exit cap or further reforms will be introduced but we understand an exit cap may be in force later in 2021. **On 22 December 2020**, three requests for Judicial Reviews of the Restriction of Public Sector Exit Payment Regulations 2020 were given permission to proceed. These requests contest the regulations on a number of grounds, including their effect on the LGPS regulations. It is expected the requests will be heard towards the end of March 2021. MHCLG has confirmed that these hearings will affect the timing of LGPS regulation changes. The LGA understand that these proceedings will prevent any direction by the Pensions Ombudsman on this matter until they are complete although they are seeking clarification on this. **On 16 Nov 2020**, APF obtained legal advice on the best course of action to take in the interim period, until the LGPS regulations are amended to accommodate the cap. As a result of that advice we have taken the decision to offer a member who exceeds the 95k cap the option of taking immediate payment of fully reduced benefits or the option to defer their benefits for payment at a later date. This is also in line with the Government and Scheme Advisory Board recommendations. We have also adopted a partial change in the factors used to calculate pension strain costs following a formal recommendation from our Actuary. New processes are now in place to deal with any cases that arise going forward. **On 30 Oct 2020**, SAB published its legal advice together with a commentary for LGPS administering authorities and scheme employers, which can be found as follows:- https://www.lgpsboard.org/index.php/structure-reform/public-sector-exit-payments	

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		On 28 Oct 2020, a letter was sent from Luke Hall, the Local Government minister, to all LGPS administering authorities in respect of the implementation of the £95k cap from 4th November recommending a course of action to take in the interim period which is that LGPS members caught by the 95k cap, who would normally be forced to take a fully unreduced pension under regulation 30(7), should be able to elect to receive an immediate but fully reduced pension or, if they do not so elect, a deferred pension plus a lump sum equal to the capped strain cost. **On 15 October 2020**, the legislation implementing the £95k cap on exit payments was signed and therefore will come into force on 4 November 2020. This means that the £95k cap will come into force in advance of the changes to LGPS regulations proposed by MHCLG in the further reform consultation, which will amend the LGPS regulations to provide for the payment of reduced pensions in whole (as is the current provision) and in part. As such, from 4 November 2020 up to the enactment of the MHCLG further reform proposals, which is expected in early 2021, there is a position of legal uncertainty. This is due to the apparent discrepancy between the obligations on scheme employers under the Cap Regulations to limit strain cost payments, and the requirement for administering authorities to pay unreduced pensions to qualifying scheme members under existing LGPS regulations. The SAB has requested the views of Counsel on the risks of challenge to administering authorities and the obligations of scheme employers during this period of legal uncertainty. **On 7 September 2020**, MHCLG launched a consultation on changes to the Local Government Pension Scheme (LGPS) and Discretionary Compensation Regulations. The consultation covers the required changes to compensation and pension regulations to implement both the £95K exit payment cap as well as public sector exit payments further reform proposals issued by HMT in 2016. The latter proposals were left to individual departments to implement rather than being via central HMT Directions, currently no other part of the public sector has any ‘live’ proposals to enact the further reform proposals. The MHCLG consultation closes on the 9 November and APF are in the process of formulating a response. At this stage there have been no proposals to implement an exit payment recovery process that was also consulted on in 2015. **On 21 July 2020**, HM Treasury published the Governments response to the consultation on restricting exit payments in the public sector. This was followed by the publication of draft regulations which include a list of employers who will be covered by the cap, which is set at a	

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		total of £95,000. Exit payments include redundancy payments, severance payments, pension strain costs and other payments made as a consequence of termination of employment. The Regulations will need to be approved by both houses of parliament and will come into force 21 days after that process is complete. We understand it is the intention that the cap will be in force for the end of the 2020 calendar year. This will affect LGPS members in England and Wales who currently qualify for an unreduced pension because of redundancy or efficiency retirement. It will also apply to members whose employer agrees to the early release of their benefits without actuarial reduction, apart from ill health retirement which is excluded. If the cap is breached, then the member may have to take a reduced pension. MHCLG is looking at options to introduce choice to allow members in this position to opt for a deferred pension instead. We also expect the introduction of a standard strain cost calculation so that the cap will apply equally to members across the country. We are expecting a consultation on changes required to the LGPS regulations imminently. **Background:-** The government first consulted on plans to cap exit payments in the public sector in 2015. On 10 April 2019, HMT launched a consultation called 'Restricting exit payments in the public sector: consultation on implementation of the regulations'. The key points in this latest consultation were as follows:- • No change from the earlier proposal that the maximum exit payment will be £95,000. • The cap will apply to a wide range of public sector employers, including employees of councils in England and Wales, fire authorities, police forces, academies and maintained schools. • The £95,000 cap will include the value of any early retirement strain payments, and it is envisaged that the ability to take an unreduced early retirement pension will therefore be severely restricted in some cases. • Certain employers in the LGPS e.g. Universities and Colleges appear not to be covered which will means members would be treated differently within the LGPS depending on their employer on exit.	

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		• As previously indicated, there will be provisions for the cap to be waived in some circumstances. However, the tone of the consultation makes clear that any waiver is expected to be the exception rather than the norm. It was expected that MHCLG will run a separate consultation, which will cover amongst other things the agreement and implementation of a common costing methodology and factors for strain payments. HMT received approximately 600 responses, one of which was from APF, and it was expected that they would publish their response in the autumn of 2019 and look to introduce the cap no sooner than 1 April 2020.	
Government	**McCloud Judgement**	**Risk Register Item – R63** **Latest Updates:-** **On 19 July 2021,** The Public Sector Pensions and Judicial Offices Bill got its first reading in the House of Lords. The Bill makes provision to rectify the unlawful age discrimination identified by the McCloud Judgment. Chapter 3 of Part 1 of the Bill confirms which members will be in scope in the LGPS and what service is ‘remediable’. Enabling legislation will allow for scheme regulations to be changed to formally implement the McCloud remedy. The second reading of the Bill will take place in the House of Lords on 7 September 2021. **On 13 May 2021,** MHCLG published its Written Ministerial Statement setting out the government’s high level objectives on how the remedy to the McCloud Judgment will be applied. The statement can be found here.	**Updated**

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		Previous Updates: **On 8 October 2020** APF issued their response to the consultation which was included as an appendix to this report at the December meeting The SAB response to MHCLG's consultation is available to view in the following location:- http://lgpsboard.org/images/PDF/letters/SAB_FINAL_MCCLOUD_RESPONSE.pdf The notes from the SAB meeting in August advised that their response would include representations to allow the LGPS regulations to be on the statute book ahead of those of the unfunded public service pension schemes, where the coming into force date is expected to be Spring 2022. LGPS remedy regulations will not have to wait for changes in primary legislation so different timescales should be possible. Getting LGPS McCloud regulations in place sooner will give all parties more opportunity to put processes in place before they come into effect in 2022. The Board also agreed that work should commence on central guidance on how the regulations are to be applied and how individual cases of poor or missing member data should be handled. **On 16 July 2020**, MHCLG published a consultation on amendments to the statutory underpin which are designed to remove age discrimination from the LGPS, see link here. In summary, the consultation proposes that qualifying members, all who were active in 2008 scheme on 31st March 2012 and accrued benefits in the 2014 scheme without a disqualifying break, would be protected by the application of a revised underpin which will be applied retrospectively for those who have already left the scheme. The consultation runs until 8th October 2020 and we are currently in the process of formulating a response. **At the SAB meeting in February**, the Board agreed to create two working groups to help implement the outcome of the McCloud judgment for the LGPS. These will be a small policy group to help MHCLG consider areas of policy not determined by HMT and a larger implementation group made up of practitioners, member representatives, actuaries, software providers and employers. They will consider the challenges of implementing and communicating the scheme changes. Due to differences in LGPS transitional protection, MHCLG are planning to	

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		undertake an LGPS specific consultation on the regulatory changes required to address McCloud. We are expecting the consultation to begin late June / early July 2020. **Background:-** The McCloud/Sargeant cases concern the transitional protections provided to older members of the judges and firefighter pension schemes following their reform in 2015 as part of the public sector pension scheme changes. In December 2018, the Court of Appeal found the transitional protections to be unlawful on the grounds of age discrimination. In June 2019, the Supreme Court denied the Government's request for an appeal and as such the case was returned to an Employment Tribunal for remedy. In July 2019, the Chief Secretary to the Treasury announced in a written statement that 'the government believed that the difference in treatment will need to be remedied across all public sector schemes, including the LGPS'. As such, the SAB agreed to establish two working groups, one to assist MHCLG in considering any areas of policy not centrally determined and the second to consider the challenge of implementing and communicating any changes. A consultation, including draft legislation, is expected in the Spring, although there is likely to be a need for changes in primary legislation that may take some time. You can find a dedicated 'Cost Management' page on the SAB website as follows:- http://lgpsboard.org/index.php/structure-reform/mccloud-page	

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SAB	LGPS Cost Management Process	**Risk Register Item – R47** **Latest Update:-** **On 19 August 2021,** the SAB published its response to the consultation on the cost control mechanism. The response can be found here Similarly, LGA published its response to the consultation on the discount rate, which can be found here. **On 24 June 2021** a Written Ministerial Statement was laid which announced the publication of two consultations. The first was about proposed reforms to the cost control mechanism and covered 3 main areas: • A change to the mechanism so that it only covers the reformed schemes. • A widening of the corridor from 2% to 3%. • The introduction of an “economic check” so that when the corridor is breached, a further check of broader economic conditions would be carried out before any breach would be implemented. The second consultation was about the discount rate used in valuations of unfunded public service pension schemes and potential changes to the SCAPE methodology used. Whilst primarily impacting the other public sector schemes (given the SCAPE discount rate is used to determine contribution rates) any changes would impact the LGPS given it is used by GAD to produce actuarial factors e.g. early retirement etc. Both consultations closed on 19 August 2021. **Previous Updates:-** We understand that this is to be one of the main topics of discussion at the meeting of the SAB which took place on 10 May 2021 and await further information of the outcome of these discussions. **At the SAB meeting in November,** the Board was reminded of the decision it took when it last met in August to un-pause its own cost cap arrangement until HM Directions including proposals	Updated

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		on how McCloud costs are going to be taken into account are published over the coming months. Members were also advised that the Government Actuary's Department is undertaking a review of the cost cap arrangement but that it is unlikely to have any impact on the outstanding 2016 cost cap process or the forthcoming 2020 process. The Government announced updates on the 2016 valuation and cost control mechanism for the unfunded public sector pension schemes advising that the cost control element of the 2016 valuations will now be completed incorporating the cost of implementing the McCloud remedy. There will be no reduction to member benefits as a result of completing the 2016 valuation if the cost ceiling is breached. However, if the cost floor is breached, this will be honoured by implementing increases in benefit accrual and/or reductions in member contributions backdated to 1 April 2019. **The notes from the SAB meeting in August** advise that, unlike the HMT arrangement, there is no compulsion on SAB to include McCloud costs in their cost management arrangement. However, it was agreed that no decision should be taken until the HMT Direction, on how McCloud costs are to be considered, is published early next year. In principle, the Board agreed that the LGPS cost cap arrangement should be un-paused in the same way as the HMT arrangement, but no action should be taken until more details are known. **At the National Technical Group in October,** MHCLG further updated that once the McCloud remedy is agreed, the value of scheme member benefit is likely to increase for many members. The cost control mechanism was designed to include the cost of these and they will be included in the completion of the cost control process. How best to do this in the LGPS will be decided once the remedy details are decided. **On 16 July 2020** the Government made an announcement confirming that the cost control mechanism pause will be lifted, and the cost control element of the 2016 valuations process will be completed for all public service pension schemes. The objective would be to complete the process by next year, taking into account the cost of the proposals to remedy age discrimination as set out in the McCloud consultations which were published that same day. The SAB are currently considering its position on the SAB employer cost cap process now that the proposals to rectify age discrimination for the LGPS are available.	

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		In April 2020 four unions including the FBU and the GMB filed court proceedings against the Government claiming that the pause in the cost control mechanism is unlawful. The unions are arguing for an improvement in member benefits as a result of the valuation results. **On 17 October 2019** GAD issued a formal request for valuation data as at 31 March 2019 as part of the cost management process that is due to be carried out in 2020. APF data was submitted to GAD ahead of the deadline of 18 November 2019. **On 14 May 2019** SAB published an advice note covering the implications of McCloud/Cost Cap in relation to the 2019 fund valuations. **Background:-** One of the Board's statutory duties, under the regulations, is to introduce and maintain a process to manage costs in the scheme alongside the process introduced by HM Treasury for all public service schemes. You can find a dedicated 'Cost Management' page on the SAB website as follows:- http://lgpsboard.org/index.php/structure-reform/cost-management In September 2018, SAB members were provided with a summary of the statement regarding the scheme valuations for all of the public service pension schemes, including the LGPS, which showed that the cost cap floor had been breached and as a result member benefits would need to be improved. SAB therefore put together a working group responsible for agreeing a package of benefit changes to return the scheme to its total target cost, while also looking at employee contributions at the lower end. It was intended that the resultant package would be put to the full SAB for agreement to ensure that scheme changes could be on the statute book by April 2019. However, in January 2019 the Government announced a pause in the cost management process for unfunded public sector schemes due to uncertainty caused by the McCloud court ruling on elements of the 2015 scheme reforms. In February, SAB learned that this applied equally to the LGPS and as such it had no option but to pause its own cost management process pending the outcome of McCloud. As a result there were no changes to benefits planned in respect of the cost cap and instead this situation would be reviewed once McCloud was resolved.	

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SAB	Good Governance in the LGPS	**Previous Updates:-** **On 15 February 2021,** the Scheme Advisory Board published Good Governance: Phase 3 Report which was produced by the Hymans Robertson project team. The Phase 3 report, link here, provides further details on some of the recommendations that were included in the Phase 2 Report. The Board agreed that the Chair should submit the Board's Good Governance Action Plan, link here, to the Local Government minister for consideration. **At the SAB meeting in August 2020**, Hymans updated the Board that draft papers on how the recommendations set out in the Phase II report are to be implemented, will be completed by the end of September 2020. The Board will consider these drafts when it meets in November 2020. If approved, the Board will then consider the process and timing of implementation. **In April 2020**, a virtual meeting of the chairs of the SAB and its two committees was held and it was agreed that Hymans work on Phase III of the Good Governance project should proceed on a limited basis due to COVID-19. They should continue to prepare papers for the SAB's consideration based on discussions already undertaken with the implementation group. However, they should avoid engaging with members of the implementation group, or local government in general at this time. **In February 2020**, the Board agreed that an implementation group, comprising the two former working groups, should be established immediately to prepare a detailed implementation plan for consideration at their next meeting. **In November 2019**, a draft Phase II report into the findings of both working groups was made available to the Board who considered it and agreed that it should be published with comments invited from scheme stakeholders. The report made recommendations for new standards of governance and administration and proposed how they could be measured and assessed independently. The recommendations covered the areas below: • general governance • conflicts of interest • representation • skills and training	**No Further Update**

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		• service delivery for the LGPS function • compliance and improvement You can find the report as follows:- http://lgpsboard.org/images/PDF/HymansRobertson_GoodgovernanceintheLGPS_Phase-II_November2019.pdf Comments on the phase II report were invited to be sent and APF issued a response to this in January 2020 concluding that overall, we were still unsure of the specific problems attempting to be addressed through some of the proposals. It seemed that another layer of governance was being added because there are some local issues around the effectiveness of Local Pension Boards or Fund Administrations. Maybe the Pension Regulator could intervene and deal with these issues as demonstrated in its own recent engagement report. Within the recommendations there were still a lot of 'shoulds' or 'coulds' whereas regulation and a definitive set of standards monitored by the Pension Regulator would be more effective. **In April 2019**, Hymans launched the Good Governance Project Survey to capture as many views as possible from those working within the LGPS with the findings forming the basis for a report which was presented to the SAB in July 2019, you can find the report as follows:- http://lgpsboard.org/images/PDF/GGreport.pdf Work to develop a detailed plan then began and two working groups were established, one to focus on defining good governance outcomes and the guidance needed to clearly set them out and the other to focus on options for the independent assessment of outcomes and mechanisms to improve the delivery of those outcomes. **Background:-** Previously known as the separation project which was developed to identify the potential benefits of further increasing the level of separation between the host authority and scheme manager role. In November 2018, the project was awarded to Hymans Robertson and was also re-named	

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		to "Good Governance in the LGPS" which better reflected the aims and ambitions of the project to enhance the delivery of the function within local authority structures.	
SAB	**Tier 3 Employers**	**Previous Updates:-** **At the SAB Meeting in May 2020**, members were advised that the working group set up to take this work forward has not been able to meet but discussions with MHCLG are being progressed. **At the SAB Meeting in Jan 2019**, the Board was advised that the work of the third tier employers' project working group had been put on hold due to competing priorities. **In Sept 2018**, a final version of the Aon report was published and can be found as follows:- http://lgpsboard.org/images/PDF/Tier_3_employers_in_the_LGPS_FINAL.pdf **At the SAB meeting in Jun 2018**, Aon presented members with a summary of the final draft report. The Board was anxious to point out that the report makes no attempt to make any recommendations, instead, it outlines a range of issues raised by stakeholders and how they envisage these concerns being resolved. The Board agreed that the report should be published and that a small working group of Board members will be established to review the concerns expressed by third tier employers in the report and the ways in which they could be resolved. The working group will be tasked to report back to the Board later in the year with a set of recommendations for further consideration. Once approved, scheme stakeholders will be given the opportunity to comment on the Board's recommendations before any formal approach is made to MHCLG Ministers for changes to the scheme's regulations or guidance. **Background:-** As part of its work plan for 2016/17, SAB wanted to identify the potential funding, legal and administrative issues and liabilities relating to admitted and scheduled bodies that do not benefit from local or national tax-payer backing (Tier 3 employers).	**No Further Update**

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		The work was split into two concurrent phases: 1) The Board was to work with LGPS administering authorities to gather data regarding the number, membership, liabilities and covenants of these employers. 2) Separately the Board appointed Aon to assist it in further analysis in this area. You can find a dedicated ‘Tier 3 Employers’ page on the SAB website as follows:- http://lgpsboard.org/index.php/structure-reform/tier-3-employers	
MHCLG	**Consultation on Fair Deal**	**On 10 December 2019,** a representative from MHCLG provided the following update to the LGPS National Technical Group “The analysis of consultation response has been completed. Officials have started to draft the government response but the content of that is still conditional on some further ministerial decisions that will need to be taken once the new government is formed”. **Background:-** In Jan 2019, MHCLG launched a policy consultation and draft regulations on ‘Fair Deal – strengthening pension protection’ in the LGPS. The consultation contained proposals to strengthen the pension protections that apply when an employee of a LGPS employer is compulsorily transferred to the employment of a service provider. The proposed amendments to the LGPS Regulations 2013 would, in most cases, give transferred staff a continued right to membership of the LGPS. These changes are intended to bring the LGPS in line with the government’s October 2013 Fair Deal guidance that applies in relation to transfers from central government. MHCLG received around 79 responses, one of which was from APF.	**No Further Update**
HMT	**Written Ministerial Statement on Survivors Benefits**	**Previous Update:-** **On 20 Jul 2020**, the Chief Secretary to the Treasury made a written statement on public service pensions, survivor benefits for opposite–sex widowers and surviving male civil partners. The statement was in relation to a Teachers Pension Scheme Employment Tribunal case where male	**No Further Update**

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		survivors of female scheme members remain entitled to a lower survivor benefit than a comparable same-sex survivor and confirmed that government believes that this difference in treatment will also need to be remedied in those other public service pension schemes, where the husband or male civil partner of a female scheme member is in similar circumstances. We await guidance from MHCLG on what action administering authorities in England and Wales should take.	
MHCLG	**Consultation on LGPS Local Valuation Cycle and the Management of Employer Risk**	**Risk Register Item – R62 (In respect of Exit Credits)** **Latest Updates:** **On 27 May 2021,** following a judicial review, a High Court Judge rejected the claim that challenged the lawfulness of the LGPS regulations introduced in 2020 that extinguished a contractors' right to Local Government Pension Scheme "exit credits" with retrospective effect. Full details of the ruling can be found here. One of the recommendations from the ruling was for Funds' policies to not explicitly rule out the payment of an "exit credit" on the sole basis that risk sharing arrangements with the letting employer existed. **In April 2021,** the Fund published its updated Funding Strategy Statement (FSS) following a consultation exercise with employers to outline proposed changes to the FSS to allow for the regulatory changes referred to below linked to employer flexibilities. The updated FSS can be found here. **Previous Updates:-** **On 2 March 2021**, MHCLG published statutory guidance to assist LGPS administering authorities and scheme employers in implementing and operating the regulations on employer flexibilities introduced in September 2020. More detailed guidance prepared by the Scheme Advisory Board, to be read in conjunction with MHCLG's statutory guidance, was published on 22 February 2021.	**Updated**

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		MHCLG are defending two claims for judicial review challenging the 2020 amendment to the LGPS Regulations on the payment of exit credits. The claimant in the Northants case was granted permission by the court on 12 November to proceed to a full hearing and the case is listed to be heard in March. **On 2 December 2020,** the secretariat to the SAB emailed pensions managers for comment on a draft guide to employer flexibilities. This was prepared by the SAB in conjunction with representatives from administering authorities and scheme employers. The purpose of the guide is to provide operational and practical assistance to administering authorities and employers when implementing employer flexibilities introduced by the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2020. APF issued a response on 7 January 2021. **On 26 Aug 2020**, MHCLG published a second partial response to this consultation covering greater flexibility on employer exit payments and the ability to review employer contributions between valuations. The LGPS (Amendment) (No.2) Regulations 2020 provided for the changes and came into effect from 23 September 2020. A working group has been established by MHCLG to prepare statutory guidance, to accompany the regulations, to assist with the necessary revisions required to Funding Strategy Statements A further response will be made by MHCLG in relation to the other proposals in the consultation (changes to the local fund valuation cycle, interim valuations and the status of further education, sixth form college and higher education corporations in England and Wales) in due course. **On 27 Feb 2020**, MHCLG published a partial response to this consultation covering the proposals on exit credits only. MHCLG will submit a further response to the other proposals covered by this consultation in due course. The response confirms that the majority of respondents supported the proposal to allow administering authorities to take account of an employer's exposure to risk when calculating an exit credit. The Local Government Pension Scheme (Amendment) Regulations 2020 giving effect to these proposals were laid in Parliament and came into force on 20 March 2020.	

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		Background:- In May 2019, MHCLG launched a 12 week consultation on policy proposals to amend the rules of the Local Government Pension Scheme 2013 in England and Wales. It covered the following areas: 1. Amendments to the local fund valuations from the current three year (triennial) to a four-year (quadrennial) cycle 2. A number of measures aimed at mitigating the risks of moving from triennial to quadrennial cycles 3. Proposals for flexibility on exit payments (Update - Resolved following second partial response to consultation in Aug 2020 and Amendment Regulations in Sept 2020). 4. Proposals for further policy changes to exit credits (Update - Resolved following partial response to consultation in Feb 2020 and Amendment Regulations in Mar 2020). 5. Proposals for policy changes to employers required to offer LGPS membership MHCLG received around 280 responses, one of which was from APF.	
HMT	**Equalisation of GMPs in public service pension schemes**	**Latest Updates:-** Following discussions between MHCLG and GAD, MHCLG are now liaising with HMT to determine how retrospective adjustments to CETV payments should be applied in public sector schemes and further guidance is awaited on this specific matter. A consistent approach is preferred.	**Updated**

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		Previous Updates:- **On 20 November 2020,** the High Court ruled that trustees who do not equalise a member's GMP benefits at the time of calculating a cash equivalent transfer value (CETVs) have committed a breach of duty. Defined benefit schemes providing GMPs should revisit historic CETVs made in the past 30 years and top them up where necessary. The judgment does not force organisations to actively correct all pensions transfers; however, employers may look to do so to avoid legal proceedings from members affected. We await further guidance from MHCLG and GAD on how GMP equalisation will be achieved in the LGPS. **Background:-** **On 26 October 2018**, Mr Justice Morgan handed down judgment in Lloyds Banking Group Pensions Trustees Limited v Lloyds Bank PLC, HBOS PLC, Angela Sharp, Judith Cain, Susan Dixon, Secretary of State for Work and Pensions and HMT. The High Court has held that schemes must equalise the discriminatory effects of GMPs and that this can be achieved using several methods. At the time, HMT confirmed that the judgement “does not impact on the current method used to achieve equalisation and indexation in public service pension schemes”.	
HMT	**Indexation of GMPs in public service pension schemes**	**Previous Updates:-** **On 23 March 2021,** the Government published its response to the consultation on Guaranteed Minimum Pension (GMP) Indexation in Public Service Pension Schemes (PSPS). The response concludes that the Government has decided to discount conversion as a long-term policy solution and make the interim solution the permanent solution for GMP indexation in PSPS. This approach will mean that PSPS will be directed to provide full indexation to those members (including survivors) with a GMP (or inherited GMP in the case of a survivor), reaching State Pension age (SPa) beyond 5 April 2021. The accompanying HM Treasury Direction (issued under section 59A of the Social Security Pensions Act 1975), implementing the decision, has been updated. The updated direction commenced on 6 April 2021 and applies in England, Scotland and Wales.	**No Further Update**

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		On 21 December 2020, the LGA and the LGPC submitted a joint response to the consultation setting out their view that they do not consider an extension of full indexation until April 2024 to be enough time, and that they believe it should either be extended for as long as possible, potentially until April 2030, or be made the permanent solution. Their main reason for this response being that the administrators of public service pension schemes are currently undertaking large programmes of work which are unlikely to be completed much before April 2030. A government response on the consultation is expected by April 2021. **On 7 October 2020,** the government published a written ministerial statement and consultation on how it proposes to ensure it continues to meet these past commitments to public service employees regarding the full indexation of public service pensions, including for any related GMP element for members of public service pension schemes. The consultation, which closes on 30 December 2020, considers the policy options available to the government and proposes to extend the interim solution until at least April 2024 or to make it a permanent solution. A link to the consultation can be found as follows:- https://www.gov.uk/government/consultations/public-service-pensions-guaranteed-minimum-pension-indexation-consultation In Feb 2020, HMRC published a newsletter on GMP equalisation. HMT are working with MHCLG to assess if GMP equalisation must apply to LGPS members' benefits and will notify administrators of the outcome in due course. **Background:-** On 6 April 2016, the government introduced the new State Pension (nSP). The reformed system simplified pension provision but removed the mechanism that enabled those public servants in 'contracted-out' employment between 1978 – 1997 to have their Guaranteed Minimum Pension (GMP) fully price protected. On 1 March 2016, the government announced that public service pensioners reaching SPa after 5 April 2016 and before 6 December 2018, would have the GMPs earned in public service fully indexed by the public service pension scheme.	

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		The government then launched a consultation to consider whether public service pension schemes should pay full indexation on GMP earned while a member of a public service pension scheme, for someone who reaches SPa after 5 December 2018. In Jan 2018, HMT published its response to the consultation directing that the “interim solution” between 6 April 2016 and 5 December 2018 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. During this period, the government will investigate the possibility of an alternative long-term methodology, known as “conversion”.	
Government	**Pension Schemes Bill**	**Previous Updates:-** **On 11 February 2021**, the Pension Schemes Act 2021 received Royal Assent and the provisions within the Act will come into force when the Secretary of State makes regulations for them to do so. The Act paves the way for the creation of Pensions Dashboards and the introduction of new powers for TPR concerning employer debt. It also introduces a requirement to assess, manage and report on climate related risks and extra conditions that members must satisfy before they are able to transfer out their LGPS benefits. The provisions of the Act that will affect the LGPS in the main are:- <u>Climate risk reporting</u> On 27 January 2021, the Government launched a consultation on regulations entitled ‘Taking action on climate risk: improving governance and reporting by occupational pension schemes’ which ran until 10th March 2021. The scope of the regulations do not include the LGPS however regulations are expected from MHCLG to substantially mirror the requirements set out in this document with a consultation on such regulations expected in the near future. <u>Pensions Dashboards</u> Administering authorities should take action to improve data quality to ensure that they are ready to supply the right information to the dashboards once they are live.	**No Further Update**

Organisation	Item	Details	Status
		<u>Transfers out</u> We are waiting for secondary legislation to fill in the detail of the extra conditions members must satisfy before they are able to transfer out their LGPS benefits. **On 7 Oct 2020**, the Pension Schemes Bill, which started in the House of Lords and was introduced into the House of Commons on 16 July 2020, had its Second Reading and is due have two days in Public Bill Committee on 3 and 5 November. **On 19 Dec 2019**, the Queen announced, in her speech, that the Government will reintroduce the Pension Schemes Bill which has been introduced in the House of Lords with the second reading on 28 January 2020. The Bill will now move to committee stage. **On 14 Oct 2019**, the Queen confirmed, in her speech, that a new Pension Schemes Bill will be introduced and will:- • strengthen TPR's powers • provide a framework to support pensions dashboards and • introduce regulations covering the right to a pension transfer.	
TPR	**Codes of Practice**	**Latest Update:-** **On 24 August 2021,** TPR published its interim response to its consultation on the New Code of Practice which ran from 17 March 2021 to 26 May 2021. The main areas of concern from respondents focussed on Unregulated Investments and the requirements for schemes to carry out an "own risk assessment". Further details can be found here. It's not expected that the New Code will become effective before Summer 2022. **On 17 March 2021,** TPR launched its New Code of Practice consultation. The consultation closed on 26 May 2021. The draft new code consolidates (with updates and amendments) most of the existing codes of practice, including the public service code of practice 14, into a new	**Updated**

Organisation	Item	Details	Status
		online code providing a single up-to-date and consistent source of information. The other codes will be consolidated into the single code at a later date, subject to further consultation.	
		Previous Update:- **On 17 March 2021,** TPR launched its New Code of Practice consultation. The consultation closed on 26 May 2021. The draft new code consolidates (with updates and amendments) most of the existing codes of practice, including the public service code of practice 14, into a new online code providing a single up-to-date and consistent source of information. The other codes will be consolidated into the single code at a later date, subject to further consultation. **On 1 September 2020**, TPR confirmed that it intends to launch the formal consultation on a single Code of Practice in late 2020 or early 2021. **Background:-** The Pensions Regulator announced changes to existing codes of practice. The content of the 15 current codes of practice will be combined to form a single shorter code. The changes will reflect the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018. Codes most affected by these regulations will be addressed first, and this includes Code of Practice 14 (public sector schemes). Schemes will need to demonstrate that they have an effective governance system within 12 months of the date the updated codes are published.	
HMT	**Consultation on the Increase to the Normal Minimum Pension Age (NMPA)**	**Latest Update:-** **On 20 July 2021,** HMT published their response to the consultation on implementing the increase to the normal minimum pension age. The response can be found here. On the same day HMRC published a policy paper and draft legislation which will be introduced as part of the next Finance Bill. This can be found here. Though the Finance Act 2004 will provide for protected pension ages, it will be up to MHCLG whether to allow LGPS members to receive payment of benefits between 55 and 57 via the LGPS Regulations. This issue has been raised with MHCLG by LGA and a response is awaited.	**Updated**

Organisation	Item	Details	Status
		Previous Update:- **On 19 April 2021,** the Local Government Pension Committee (LGPC) responded to the consultation on increasing the normal minimum pension age (NMPA). You can read the LGPC response on the non-scheme consultations page of www.lgpsregs.org. **On 11 February 2021**, HMT published Increasing the normal minimum pension age: consultation on implementation. The consultation, which closes on the 22 April 2021, re-confirms the Government's commitment to increasing the NMPA and seeks views on the implementation of the rise in NMPA and protections for pension scheme members. It proposes that members who have a right under the scheme rules to take benefits before age 57 at the date of the consultation will be protected from the increase in NMPA. **Background:-** In 2014, the Coalition Government consulted on increasing the normal minimum pension age (NMPA) from 55 to 57 from 6 April 2028 as part of the Freedom and choice in pensions consultation.	

Organisation	Item	Details	Status
DWP	Pensions Dashboard	**Latest Update:-** The Fund has now appointed a dedicated officer to oversee the Fund's ongoing responsibilities in relation to the development of the Pensions Dashboard. **On 5 July 2021,** LGA published its response to the Pensions Dashboards Programme Staging Call for Input. You can read the LGPC response here. **On 1 July 2021,** TPR published its results from the Public Service Governance and Administration Survey 2020-21, which can be found here. Section 4.10 focussed on Pension Dashboards. **Previous Update:-** **On 13 April 2021**, the Pensions Dashboards Programme (PDP) issued an invitation to tender for a supplier to provide the digital architecture for pension dashboards. The chosen supplier will provide the main parts of the digital architecture. This will include the pension finder service, the consent and authorisation service and the governance register. **In March 2021**, the Pensions Administration Standards Association (PASA) published guidance on how to start getting ready for pensions dashboards. This is the first of a series of releases of PASA guidance for UK pension schemes, trustees and providers on how to start getting ready for pensions dashboards, see link here. **On 15 December 2020**, the Pensions Dashboard Programme (PDP) published the key data standards which will underpin pensions dashboards. Data standards provide a common language to describe the pensions information that will be found and displayed on the dashboards. Pension schemes will need to make sure that their data is consistent with the standards, so that members can access this through the dashboards. With onboarding to dashboards expected from 2023, the PDP urges all schemes to start preparing their data now. **On 28 October 2020**, the Money and Pensions Service (MaPS) published their second Pensions Dashboards Programme progress update report, see link here. The report includes updates on:	Updated

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<tr><th>Organisation</th><th>Item</th><th>Details</th><th>Status</th></tr>
<tr><td></td><td></td><td>• the Pension Dashboards Programme’s (PDP) high level activity plan
• resourcing to deliver next phases of the programme
• market engagement to help finalise digital architecture requirements
• refining requirements for identity verification
• setting up a working group to ensure consumer focus
• reviewing feedback.

The timetable in the report reveals that the PDP expects the dashboard to be available to retirement savers for the first time in 2023.

In April 2020, MaPs published two papers:-

• Pensions Dashboards Data Definitions – Working Paper (which lists the set of data items that could be included in the dashboards data standards.
• Pensions Dashboards Data Scope: Working Paper (which looks at options for achieving early breadth of coverage and confirms that initial dashboards will only include information that is already available on annual statements to enable the maximum number of pension schemes to onboard at an early stage.

MaPS requested formal feedback on these papers throughout July and August and are currently reviewing the responses received and will give a summary in the autumn.

Background:-

The Pensions Dashboard is an online service which would allow people to see information from multiple pensions all in one place. Following a feasibility study, conducted by DWP, to explore the options for delivering the Pensions Dashboard, the Government launch a consultation in Dec 2018 setting out the findings of the study and their recommendations for dashboards. In April 2019, the government published its response to the consultation outlining the key details of their plan including:-

• Legislation to compel pension providers to make consumers’ data available on the dashboard</td><td></td></tr>
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Organisation	Item	Details	Status
		• Staged onboarding of schemes with the majority of schemes participating within 3 to 4 years • The inclusion of state pension data • A commitment to multiple dashboards, with a non-commercial dashboard being overseen by the Money and Pensions Service (MAPS). MAPS will lead the delivery of the initial phase of the pensions dashboards and will bring together a delivery group made up of stakeholders from across the industry, consumer groups, regulators and government. The DWP advises the pensions industry to get ready, in the next three to four years, to submit data. Compulsion will require primary legislation and the Pensions Minister, Guy Opperman, has indicated his Department's intention to include a Pensions Bill in the next Queen's Speech for this.	
Government	**Divorce, Dissolution and Separation Act 2020**	**On 25 June 2020**, the Divorce, Dissolution and Separation Act 2020 received royal assent and will, in the main, come into force on a date to be appointed by Government. The Act will revise the legal process in England and Wales for married couples to obtain divorces and for civil partners to dissolve their civil partnership. It will also update terminology: terms such as “decree nisi”, “decree absolute” and “petitioner” will be replaced with “conditional order”, “final order” and “applicant”.	**No Further Update**
SAB	**Responsible Investment**	**Latest Update:-** **On 8 June 2021,** DWP published regulations in parliament to require schemes with £5bn or more in assets, and all authorised master trusts, to report on how they will manage their climate risk from October this year, alongside Guidance for trustees of occupational schemes. These requirements do not however apply to the LGPS. MHCLG will be consulting on regulations which will require similar levels of risk assessment and reporting later this year. **Previous Updates:-**	**Updated**

Organisation	Item	Details	Status
		On 28 April 2021, Cllr Phillips, Chair of the SAB, announced the launch of the online A-Z guide to Responsible Investment (RI) at the Local Authority RI Seminar. The guide provides a glossary of RI terms, organisations, standards and legislation indexed by its classification (what it is), category (where it fits in Environmental, Social and Governance (ESG)) and status (in the context of the LGPS legislative framework) with related LGPS specific case studies. **On 3 March 2021**, the newly established Responsible Investment Advisory Group (RIAG) met for the first time. It discussed a wide range of responsible investment related issues, including MHCLG's proposals for Task Force on Climate-related Financial Disclosures (TCFD) reporting within the LGPS and the response to the LGPS All Party Parliamentary Group's inquiry into a "Just Transition". The main role of the group will be to advise the Scheme Advisory Board (SAB) and the Investment Committee on all matters relating to responsible investment. It will also be responsible for assisting the SAB in developing and maintaining the online Responsible Investment A to Z website. **At the SAB Meeting in February 2021**, the Board was advised that work on preparing the responsible investment A to Z website continues. The first milestone, a working version of the website, has been reached and work will now commence on populating the underlying database with relevant items. The aim remains for the website to go live towards the end of March. The Board also agreed membership of the new Responsible Investment Advisory Group (RIAG) as recommended by the investment, governance and engagement committee. The first meeting of the RIAG is scheduled for early March. **At the SAB Meeting in May 2020,** members were advised that work on preparing an A-Z guide to Responsible Investment will continue over the summer. As agreed in February the guide will not at this stage include any reference to fiduciary duty. The aim is to have a final draft for wider consultation ready to be considered by the Board by mid-August. **On 11 May 2020,** SAB issued a statement on the Supreme Court boycotts judgement as follows:- 'The SAB welcomes the clarity brought by the judgement of the Supreme Court in the case of R (on the application of Palestine Solidarity Campaign Ltd and another) Appellants) v Secretary of State for Housing, Communities and Local Government (Respondent). In seeking to restrict the outcome as well as the considerations taken account of by an LGPS administering authority	

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		when developing its responsible investment policy, the government has been judged to have overstepped its powers. It is the Board's view that Responsible Investment policy decisions belong at the local level reflecting: the need to pay pensions both now and in the future; local democratic accountability and the views of scheme members; and that outcomes of policy developments should not be subject to restrictions based on unrelated matters'. **On 24 February 2020,** the SAB issued a statement thanking all those who responded to the request for comments on Part 1 of the Responsible Investment draft guidance. They advised that responses have been generally positive, however, some respondents have raised concerns around the issue of fiduciary duty in the context of the LGPS and, in particular, the role and responsibilities of elected members responsible for making investment decisions. The Board is also aware that the issue of fiduciary duty was discussed during the recent case in the Supreme Court involving the Palestine Solidarity Campaign and MHCLG that could shed some light on how the fiduciary duty test applies to investment decision makers in the LGPS. More recently, the government has introduced amendments to the Pension Schemes Bill which potentially could have a significant impact on the way in which investment strategy statements are prepared on issues like ESG and climate change. For these reasons, the view is taken that it would be imprudent at this stage to offer any definitive advice or guidance on how the fiduciary duty test applies to investment decision makers in the LGPS. The Board has therefore decided to take stock until it has had the opportunity to evaluate the judgement handed down by the Supreme Court and when more is known about the government's position on the proposed climate change provisions in the Pension Schemes Bill. Notwithstanding this decision, the Board is mindful that there are matters outside of fiduciary duty where advice and information would continue to be helpful. The Board has therefore decided to restructure the proposed guidance to explain and clarify the terminology associated with responsible investment and provide investment decision makers with a range of information, case studies and tools to help them meet the challenges associated with responsible investment. The revised document will be circulated in draft to scheme stakeholders for comment in the normal way.	

Organisation	Item	Details	Status
		This change of direction will not preclude the Board from addressing the issue of fiduciary duty as a separate issue once the Supreme Court judgement in the foreign boycott case has been handed down and when there is more certainty about the government's proposals under the Pension Schemes Bill. **On 3 January 2020,** APF issued their response to the consultation. **Background:-** **At the meeting of the Scheme Advisory Board on the 6th November 2019,** approval was given for the first part of guidance on responsible investment to be published for consultation. The aim of this first part of RI guidance is to assist and help investment decision makers to identify the parameters of operation within scheme regulations, statutory guidance, fiduciary duty and the general public law and the scope for integrating ESG policies as part of investment strategy statements. The Board wished to make it clear that there is no intention to prescribe the extent to which ESG policies must be adopted as this must clearly remain a matter for local consideration and agreement in accordance with MHCLG's statutory guidance. The Board also agreed that work should commence on drafting part two of the guidance, the aim of which is to provide investment decision makers with a toolkit they can use to further integrate ESG policies as part of their investment strategy. As part of the consultation on part one of the guidance, consultees were also invited to submit details of case studies that evidence the successful adoption of ESG policies, in particular, those focused on the risks associated with climate change. Consultees were also invited to suggest other matters that should be included in the part two guidance. The aim will be to have prepared a working draft of the part two guidance in time for it to be considered by the Board when it next meets in February 2020.	