

Lancashire Local Pension Board

Meeting to be held on Tuesday, 24 January 2023

Electoral Division affected:
(All Divisions);

Regulatory Update

Contact for further information:

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Brief Summary

This report sets out an update on various pension related regulatory issues to assist Board members to exercise their functions as a member of the Pension Board effectively.

Recommendation

The Board is asked to consider and note the contents of the report.

Detail

1. Update on McCloud

On 24 November 2022, HMRC launched a consultation on how pension tax will apply to members protected by the McCloud remedy, alongside the draft Public Services Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023. The legislation is planned to take effect from 6 April 2023, though some provisions will have retrospective effect. The aim is to make changes to tax legislation so that as far as possible the tax treatment applies as if the remedy had always applied.

The draft regulations that will apply to the Local Government Pension Scheme (LGPS) are:

- 14: how any underpin increase is treated for annual allowance purposes
- 17 and 23: whether any additional pension commencement lump sum paid after the normal deadline is an authorised payment
- 18,19 and 24: how an underpin increase affects a past trivial commutation payment and whether any additional amount due is an authorised payment
- 22: whether arrears of pension payments in respect of a deceased Scheme member are authorised payments
- 26: whether a pension remains authorised where it is reduced due to a retrospective lifetime allowance debit



- 27 and 28: whether overpaid pensions and lump sums which are not recovered are authorised payments
- 30: whether additional amounts of death grants paid after the normal two year time limit are taxable payments
- 37 and 38: valuing benefits for individual protection 2016
- 40: the impact of an underpin increase on fixed protection 2016.

The consultation documents include an explanatory memorandum and guidance for administrators on the draft regulations.

The Local Government Association have had a round table discussion with HMRC and have responded to the consultation, which closed on 6 January 2023

HMRC have said in their newsletter that they are not able to respond to individual member queries about the remedy.

Local Pensions Partnership Administration Ltd (LPPA) has responded to the consultation and a copy of the response is available on request.

Separately HM Treasury has issued [Directions in relation to the Public Service Pensions and Judicial Offices Act 2022](#) (PSPJOA) covering the exercise of powers contained in the Act, how compensation may be paid, and the information that must be provided in an application for compensation. These Directions are needed to allow the further period of consultation on the updated draft LGPS regulations which is expected in early 2023, though it is still expected that the regulations will come into force on 1st October 2023. The Department for levelling Up, Housing and Communities (DLUHC) intend to issue statutory guidance on the implementation of McCloud following the period of consultation.

There is a concern due to the late issue of the new draft regulations, as it gives Funds less time to implement the changes. LPPA have already been taking steps to ensure that employers have been submitting the hours and service break data that will be required to implement the new remedy, and since 2014 LPPA have continued to update these data items when provided.

Civica (the system provider for LPPA) will be carrying out development work so that LPPA's administration system UPM is as ready as possible for the McCloud remedy to provide bulk remedy solutions including the recalculation of benefits and annual allowance and the rectification of affected members.

2. Pensions Dashboards

On 17 October 2022 the Department for Work and Pensions (DWP) laid a draft of the regulations, which were approved by both houses of Parliament, and [The Pensions Dashboard Regulations 2022](#) came into force on 12 December 2022.

The staging deadline for public service pension schemes is confirmed as 30 September 2024 (for find requests) and value data (i.e. current value and projected value of benefits for active members) will need to be available by 1 April 2025.



The regulations confirm that the Secretary of State will give six months' notice of the 'Dashboard Available Point' but do not confirm the actual effective date. This is the point at which pension dashboard services are to be available for use by the general public. It is expected that additional work will arise from this point particularly from partial find requests, where further authentication work is required and member queries may arise, so the six months' notice period gives scheme administrators the time to recruit additional staff as necessary before this work commences.

The Pensions Dashboards Programme (PDP) have published two short videos -

The first video is called '[Get your data ready for pensions dashboards](#)' which provides guidance to schemes on how to cleanse data so that it is accurate and up to-date.

The second video is '[An introduction to find and view data](#)' and explains the important differences between find data and view data.

PDP have also published revised standards for connecting to the dashboards' ecosystem, which incorporate feedback from the first consultation published in July 2022. They have launched a further consultation on the design standards for how pensions information must be presented to the user in a way that is accessible and inclusive. The consultation closes on 16 February 2023 and LPPA intend to submit a response.

The Pension Regulator have separately launched a consultation on its draft dashboards and enforcement policy which closes on 24 February 2023. LPPA will respond to this consultation.

3. Autumn Statement

The Chancellor of the Exchequer delivered his Autumn Statement to Parliament on 17 November 2022. Pensions policies rumoured in advance of the statement such as changes to tax relief and the removal or suspension of the State Pension triple lock did not emerge. The statement confirmed the following policies that have a direct or indirect impact on LGPS members:

- The State Pension triple lock was maintained and working age benefits will increase in line with inflation in April 2023. Next year's increase will be 10.1 percent.
- The DWP review of the State Pension age will be published early in 2023. The review is currently underway to consider whether the existing timetable to increase the State Pension age remains appropriate. The Government must publish the review by 7 May 2023. This is relevant to LGPS as the pension age for career average benefits built up after 1 April 2014 is set equal to State Pension Age.
- No changes to the annual allowance, tapered annual allowance or Money Purchase Annual Allowance in 2023/24.
- No changes to the Lifetime Allowance which will remain at its current level of £1,073,100 until the end of the 2025/26 year.



- Current personal tax thresholds for income tax and national insurance (in England and Wales) will be frozen until April 2028. Increases to wages, benefits and pensions at a time of high inflation will mean that more of the lowest earners will start to pay tax and more people will be drawn into the 40 percent tax band.
- The additional rate threshold (in England and Wales) will reduce from £150,000 to £125,140 from April 2023. This is the threshold beyond which individuals pay income tax at 45 percent

Separately, on 9th December 2022, the Chancellor of the Exchequer announced a set of reforms to drive growth and competitiveness in the financial services sector. It has been confirmed that the Government will be consulting in early 2023 on issuing new guidance on Local Government Pension Scheme asset pooling. The government will also consult on requiring LGPS funds to ensure they are considering investment opportunities in illiquid assets such as venture and growth capital, as part of a diversified investment strategy.

4. September 2022 CPI rate announced

On 19 October 2022, the Office for National Statistics announced the Consumer Prices Index (CPI) rate of inflation for September 2022 as 10.1 per cent. Government policy in recent years has been to base increases under the Pensions (Increase) Act 1971 and revaluation of pension accounts under section 9 of the Public Service Pensions Act 2013 on the rate of CPI in September of the previous year. Confirmation from Government that the revaluation and pensions increase that will apply to LGPS active pension accounts, deferred pensions and pensions in payment in April 2023 will be 10.1 per cent is awaited. However, the expectation is that 10.1% will be applied.

5. High Court dismisses challenge against RPI reform

The High Court dismissed the judicial review claim brought by the British Telecom, Ford, and Marks & Spencer pension schemes. This followed the UK Statistics Authority's (UKSA) decision to align the Retail Price Index (RPI) with a housing cost-based version of the Consumer Price Index from 2030.

In the LGPS RPI is only used for the uplift of additional pension purchased by a member by way of an Additional Regular Contribution contract where the member made the election before 1 April 2012.

Some of the valuation assumptions are driven by market implied RPI but in the 2022 valuation it was assumed that RPI reform would continue, so this ruling has no effect.

6. Annual allowance misalignment

In assessing whether Annual Allowance (AA) charges arise for a member, an assessment is made of the opening balance and closing balance for the year to determine whether the difference in these figures (i.e. the increase in pension) exceeds the annual allowance threshold.



There has been an anomaly each year where the opening balance is uprated by pensions increases applied in the previous year (applied on 6 April), but then the closing balance is determined after pensions increase from the current year have been applied to CARE pay (applied on 1 April).

This year the anomaly has a greater effect due to the difference in CPI last year (3.1%) and this year (when confirmed – 10.1%). The intention was never that inflation should affect Annual Allowance calculations in this way.

There are plans to change the NHS pension scheme to move the revaluation date to the first Monday of the new tax year, to avoid the anomaly in their scheme.

DLUHC have been considering this change for LGPS but have most likely left it too late to implement as a consultation would be required and software suppliers have not got time to change PI/revaluation programs. Without any changes, the number of active members incurring an Annual Allowance charge and the level of charges may increase.

If there are no changes for the LGPS there might be a backlash from LGPS high earners at being treated differently to NHS high earners.

7. SAB Statement on employer contributions

At its meeting on 10 October 2022, the Scheme Advisory Board (SAB) discussed emerging results from the current round of triennial local fund valuations. The Board understands and recognises the extremely challenging position for local government finance. However, it asks administering authorities and other Scheme employers to have regard to the desirability of long-term stability in pension contributions when considering whether reductions in employer contributions are desirable because of an improved funding position. The SAB statement on employer contributions gives more detail about the Board's discussions and the reasons behind making the statement.

8. Further Education reclassification

Following a review into the classification of further education sector, the Office for National Statistics has reclassified colleges and their subsidiaries in England into the central government sector. Further details about Further Education reclassification can be found on the [Government's website](#). This does not have any immediate impact on how colleges are treated in the Pension Fund, however, it does open the possibility that the Government will offer a guarantee to Funds similar to the academy guarantee. If that is the case, it could impact college's contribution rates but this is generally thought unlikely to be resolved before the 2022 valuation is concluded. Accordingly, the valuation is proceeding based on the current position of colleges.

9. New LGPS minister

Lee Rowley MP was appointed Parliamentary Under Secretary of State in the Department for Levelling Up, Housing and Communities on 7 September 2022. It



has now been confirmed that he has taken over ministerial responsibility for the LGPS.

The Chair and Secretary of SAB met with the LGPS Minister in December to discuss progress on the Good Governance recommendations, climate risk and reporting regulations for the LGPS and the impact of National Living Wage increases in the coming years on local government.

10. New Pensions minister

Laura Trott has been confirmed as the new Minister for Pensions, with responsibility for pensioner benefits, private and occupational pensions, and the care of arms-length bodies such as the Pensions Regulator.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Without the required knowledge and skills, those charged with governance and decision making may be ill-equipped to make informed decisions regarding the direction and operation of the Pension Fund.

Local Government (Access to Information) Act 1985 List of Background Papers

N/A

Reason for inclusion in part II, if appropriate

N/A

