

Lancashire Local Pension Board
Meeting to be held on Tuesday, 4 April 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. McCloud - Regulations

Following the 'McCloud' and 'Sargeant' Court Cases, the Government is making amendments to the statutory underpin introduced in April 2014, as it was found to discriminate against younger members. The first consultation on draft regulations to amend the statutory underpin ran from 16 July 2020 to 8 October 2020. A response to this consultation is expected, along with further updated draft LGPS regulations, and the final regulations are expected to come into force in October 2023. There is concern about the lateness of the final regulations given the changes that will need to be made to pension calculations software to deliver the McCloud remedy.

On 6 February 2023, the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 were laid. These regulations follow the consultation that ran from 24 November 2022 to 6 January 2023 and put members who are affected by the McCloud remedy "as far as possible, into the tax position they would have been in had the discrimination not happened". The regulations come into force on 6 April 2023.



2. McCloud – Data

The Scheme Advisory Board (SAB) has published guidance to help administering authorities with McCloud data issues. The guidance sets out what options administering authorities may consider if they are unable to collect data needed to implement the McCloud remedy. It covers both missing data and data the administering authority is not confident is accurate. Lancashire County Pension Fund employers continued to submit hours and service break data after the introduction of the 2014 Scheme, however Local Pensions Partnership Administration (LPPA) are asking all employers to attest to the quality of this data.

3. McCloud – Fire Brigades Union vs HM Treasury Judicial Review

The Fire Brigade's Union (FBU) and five other unions had claimed that the outcome of the costs control mechanism for the 2016 valuations should result in a reduction in member contributions and/or an improvement in benefits, and that the HM Treasury directions undo this by factoring in the cost of the *McCloud* remedy.

The full judgement has now been published. The High Court ruled in favour of HM Treasury on all grounds. The judge also refused permission to appeal, but the FBU and other parties are able to apply for permission to appeal directly to the Court of Appeal. The full judgment [can be read here](#).

Had the unions been successful, this could have had an impact on the costs control mechanism for other schemes including the LGPS.

4. McCloud – Part-Time Teachers

Another issue raised by the implementation of the McCloud remedy is that in the Teachers' Pension Scheme (TPS) some teachers will be retrospectively eligible for the LGPS for the period from 1 April 2015 to 31 March 2022. This is because in the Teacher's final salary scheme if a teacher had a part time employment in addition to their full-time employment, they were in many cases eligible for LGPS in the part time employment. The Department for Education (DfE) and DLUHC will consult on how this will work in practice in due course. DfE has estimated that approximately 18,000 teachers nationwide are in scope, so we expect the number of members for the Lancashire fund to be in the low hundreds. These will be a mix of active, deferred and pensioner members.

5. Pensions Dashboards

The Department of Work and Pensions (DWP) has announced a delay to the Pensions Dashboards Programme in a [written ministerial statement](#), stating that a "new plan for delivery" will be developed.

It was reported in the regulatory update to the Local Pensions Board in January 2023 that the staging deadline for public service pension schemes had been confirmed as 30 September 2024 (for find requests) and 1 April 2025 (for value data). These staging dates would be ahead of the "Dashboard Available Point" when all Dashboard services would be made available to the public. It is not clear if these connection deadlines for public service pension schemes will change. The Pension



Regulator urges schemes "to continue preparing for dashboards, in particular by getting to grips with members' data.". LPPA are continuing their preparations in line with the original deadlines.

TPR are holding a [free webinar](#) on 30 March 2023 about "getting to grips with your data".

6. Budget 2023

It has been reported that the Lifetime Allowance (LTA) charge will be removed from April 2023, before the Allowance is abolished entirely in a future finance bill (expected to be effective from April 2024). The Lifetime Allowance is the tax-free limit for pension savings during a lifetime, and the current limit is £1.0731 million. It is thought that the charge will no longer apply for benefit crystallisation events (for example, retirements) from 6 April 2023, but the LTA figure will still be used for some calculations up to April 2024, for example to work out the maximum tax-free cash that a member can take at retirement.

The annual allowance will remain in place but will go up from £40,000 to £60,000 from April 2023, after being frozen for nine years. Those who are already drawing a pension who want to save more will be able to put in £10,000 a year, up from £4,000. Details will be confirmed in the Spring Finance Bill 2023.

Also announced in the budget, the government is challenging the Local Government Pension Scheme in England and Wales to move further and faster on consolidating assets – it is expected that a forthcoming consultation will propose LGPS funds transfer all listed assets into their pools by March 2025 and set direction for the future which may include moving towards a smaller number of pools in excess of £50 billion to optimise benefits of scale. In addition, the Government will also consult on requiring LGPS funds to consider investment opportunities in illiquid assets such as venture and growth capital, thereby seeking to unlock some of the £364 billion of LGPS assets into long-term productive assets. In terms of Lancashire County Pension Fund, 100% of the Fund's assets are managed by Local Pensions Partnership Investments Limited and 96% of assets are pooled.

7. DLUHC Cost Management Process Consultation

There are [two cost management processes](#) for the LGPS – the HM Treasury (HMT) and the Scheme Advisory Board (SAB) processes. The SAB Cost Management Process (CMP) has target costs for employer and employee contributions, and SAB will make recommendations for scheme changes if there is movement from the target in either direction. The SAB scheme cost assessment operates independently of, and prior to, the HMT directed cost control mechanism (CCM). The HMT CCM is focussed on employer contributions and has a role in standardisation of the cost control processes across public service pension schemes.

It was reported in the regulatory update on 18 October 2022 that separate legislation has widened the cost corridor from 2% to 3%.



DLUHC launched a [consultation](#) on reforms to the SAB CMP, which closed on 24th March 2023.

The HMT process moved to a four-year cycle in line with other public service pension scheme valuations in 2018. One of the proposals in the current consultation is to move the SAB CMP to a 4-year cycle to bring it in line. The consultation documents state "Amending the regulations to bring the scheme valuation and cost control process in line with the scheme valuations in the other public service pension schemes every four years will align the government and SAB mechanisms and allow the SAB CMP to operate immediately prior to the HMT CCM."

Note that this does not change the requirement to undertake individual LGPS Fund valuations on a triennial basis.

The consultation also proposes giving flexibility to SAB by removing the requirement to make recommendations on scheme changes if the target is breached and introduces an economic check to be considered before any scheme changes.

SAB's response to the consultation is generally supportive, the full response [can be found here](#).

8. Confirmation of annual revaluation and pensions increase

On 20 February 2023, HM Treasury (HMT) published a written ministerial statement confirming the rates of annual revaluation, earnings and pensions increase (PI) due to apply in April 2023.

The statement confirms:

- public service pensions will increase on 10 April 2023 by 10.1 per cent, in line with the Consumer Prices Index (CPI) up to September 2022
- annual revaluation of 10.1 per cent plus any local addition will be used to revalue the 2014 / 2015 CARE accounts in April 2023 for those public service pension schemes that rely on prices as the measure for revaluation

The employee contribution table for 2023/4 will also be affected. The contribution bands are calculated by increasing the 2022/23 bands by the September 2022 CPI figure of 10.1 per cent and then rounding down the result to the nearest £100.

These changes will impact on the Local Government Pension Scheme. LPPA have communicated this to members on the news pages of their website and will be issuing a year end bulletin to employer contacts.

9. Changing Scheme Revaluation Date

As reported in the Regulatory Update to the Board in January 2023, DLUHC had been considering a change to the annual revaluation date for the LGPS benefits to stop the inadvertent impact of inflation on the annual allowance. A consultation on draft regulations changing the annual revaluation date in the LGPS ran from 10 February to 24 February 2023.



The regulations remove the impact of inflation on the annual allowance, by changing the annual revaluation from the 1st to 6th April 2023, and thereafter on each 6th of April, for all members. However, this will not apply to those members who were already deferred or in receipt of a pension since before 1st April 2022.

DLUHC responded to the consultation on 9 March 2023, confirming that it will be proceeding with the change. On the same day, it laid the Local Government Pension Scheme (Amendment) Regulations 2023, which take effect from 31 March 2023

Local Government Association will be issuing a bulletin to set out the impact of the change.

10. Transfers - Reporting Concerns to the FCA

The Financial Conduct Authority has said that it wants to hear from pension schemes who have carried out checks and have serious concerns about a pension transfer. It has set out a [list of things](#) that it would like schemes to report to it and confirmed how schemes should report. The list is predominantly of concerns that would now raise red or amber flags in the transfer out process. LPPA already have a step to report concerns to FCA within their transfer processes.

11. Expansion of Auto Enrolment

On 3 March 2023, DWP confirmed it will support the private members bill expanding Auto Enrolment. The Pensions (Extension of Automatic Enrolment) (No.2) Bill 2023 proposes to give Government regulatory making powers to:

- abolish the Lower Earnings Limit for contributions – currently £6,250; and
- reduce the age of auto enrolment for eligible jobholders – down from 22 to 18.

Government has not given a timetable for when the changes may take effect. Under the regulations that govern the LGPS most new employees are contractually enrolled into the Scheme. As such the above changes would have limited impact on LGPS.

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

Paper	Date	Contact/Tel
N/A		

Reason for inclusion in Part II, if appropriate

N/A

