Lancashire Local Pension Board
Meeting to be held on Tuesday, 17 October 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

McCloud – LGPS amendment regulations now laid.

Background to the McCloud remedy and its implications was covered in more detail in the April and July regulatory updates to the Board.

On Friday 8th September the Government issued its response to the consultation "McCloud remedy in the LGPS – supplementary issues and scheme regulations".

The response covered proposals around aggregation, club transfers, flexible retirement, divorce, injury allowances, compensation, interest, and excess teacher service. In the main, the response confirms that the proposals in the consultation will be implemented.

The Local Government Pension Scheme (Amendment) (No. 3) Regulations 2023 were published on 8th September 2023 and come into force on 1 October 2023. For calculations from this date Local Pensions Partnership Administration Ltd (LPPA) will need to apply the statutory underpin to qualifying members' benefits. There has been a concern within the pensions industry about the lateness of the regulations and a verbal update will be provided at the meeting on related system developments.

LPPA have been seeking confirmation from employers that the service data they have submitted since 2014 is correct for their members, so that LPPA can use this data for the final salary underpin calculations. Some employers have yet to respond, and LPPA are working with the Pension Fund team to target those employers. Calculations for members affected will potentially be delayed if employers do not respond.

The Local Government Association (LGA) are working with the Communications Working Group to produce member resources relating to the McCloud remedy. The resources will include a dedicated area of the LGPS member website and a member factsheet as well as paragraphs to include in benefit notification letters to affected members.

McCloud – Annual Benefit Statements

On 30 August 2023, the Pensions Regulator published guidance on annual benefit statements for public service pension schemes, however this guidance is primarily aimed at schemes who are more impacted by McCloud and will need to send remediable service statements to members affected by the McCloud remedy (for example, police and fire schemes). LGPS administrators will not need to do this.

Benefit Statements from the LGPS from August 2025 will include information about underpin protection for all qualifying members. The Pensions Regulator also provided guidance that statements should be (i) clear and in plain language (ii) accessible via digital and hard copy and available in different formats and (iii) explain tricky concepts and signpost members to further guidance.

McCloud – Second set of Tax rectification regulations laid

On 17 August 2023, the Government laid The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (no. 2) Regulations 2023. The regulations came into force on 14 September 2023.

Relating to the LGPS, the regulations address issues not dealt with by the first set of tax rectification regulations around small pot payments, arrears of survivor pensions following death of the survivor, and the treatment of lifetime allowance excess lump sums.

The regulations also set out provisions regarding administration, such as a separate reporting framework instead of Self-Assessment.

HMRC have published remedy guidance for pension schemes.

McCloud – further developments

There are still some areas where additional regulations are needed (particularly for dealing with excess teacher service) and a further consultation on these will follow in due course.

2. Pensions Dashboards

There have been developments on the implementation timescale for dashboards. The Department for Work and Pensions (DWP) has laid The Pension Dashboard (Amendment) Regulations 2023 which remove the phased staging timeline from the regulations and set a single connection deadline of 31 October 2026 for all schemes. This is an ultimate deadline for connection and failure to comply could result in regulatory action by the Pensions Regulatory.

Whilst formally removed from Regulations, guidance however will still be issued by DWP and the Money and Pensions Service on a Staged Connection timeline for individual schemes (including the LGPS) and Schemes are still expected to continue their preparations accordingly.

There will still be a "Dashboard Available Point" which will be the date that dashboards will be available to the public. The Secretary of State will decide on this date, depending on the progress that providers make. For a successful launch of Dashboards, enough schemes need to be connected to give the public confidence in the data available. Six months' notice will be given to providers of the Dashboard Available Point.

The Pensions Regulator has published updated dashboards guidance to reflect the regulations and to set out what schemes need to do to demonstrate their governance and decision making processes. The Pension Fund team are starting scoping working in October around this project.

LPPA are continuing their preparations in line with the original deadlines.

On 2 May 2023, the Pensions Dashboards (Prohibition of Indemnification) Act 2023 received Royal Assent. The Act will prohibit trustees and managers of occupational and personal pension schemes from being reimbursed out of scheme assets for any penalties imposed on them under the dashboard regulations.

3. SAB Annual Report and valuation results

On 26 June 2023, the Scheme Advisory Board (SAB) published its tenth Annual Report.

The report provides a single source of information about the status of the LGPS for its members, employers and other stakeholders. Continually improving key information about the Scheme as a whole is one of the top priorities of the Board. The report combines information supplied in 86 fund annual reports, as at 31st March 2022. Key highlights for 2022 are:

- total membership of the LGPS increased slightly, growing by 161,871 (2.6 per cent) to 6.39 million members in 2022 from 6.23 million in 2021.
- total assets of the LGPS increased to £369 billion (a change of 7.8 per cent), invested in
    - pooled investment vehicles – 67%
    - public equities – 12%
    - bonds – 3%

- direct property – 3%
  - other asset classes – 15%
- local authority return on investment over 2021/22 was 8.1 per cent. This compares to UK CPI[1] year on year inflation of 8.8 per cent (Sept to Sept)
- the Scheme maintained a positive cash-flow position overall, including investment income.
- over 1.95 million pensioners were paid over the year.
- life expectancy rebounded to pre-covid levels with an increase of 0.8 years for males and 0.6 years for females (2021 figures versus 2022)
- total management charges increased by £385 million (22.5 per cent) from £1,711 million. This was primarily driven by a £381 million (25.6 per cent) rise in investment management charges, while administration and oversight and governance costs remained broadly stable.

In August 2023, SAB published a summary of the 2022 valuation results as reported for 85 funds in England and Wales. Key headlines are:

- Average funding levels have improved since 2019, with average funding levels of 107% across the LGPS. The funding level of LCPF as at March 2022 was 115%.

- Average total employer contribution rates are 21.1% of pay, 1.8% of pay lower than following the 2019 valuation. The average total contribution rate in the Lancashire County Pension Fund payable from 1 April 2023 is 16.9% (increasing by 0.1% each year over the next two years)

- Average primary contribution rates – that is contributions to fund future benefits - increased from 18.6% of pay to 19.8% of pay. The average primary contribution rate in the Lancashire County Pension Fund is 19.2%.

- The results suggest that surplus funding is not being fully utilised to reduce employer contribution rates, perhaps to allow for a 'buffer' to protect against adverse experience (e.g. recent high inflation), or to maintain stability of contributions. This is relevant to item 6 below and a buffer of 10% was retained by LCPF.

4. Gender pensions gap report and working group

In January 2023 the LGPS Gender Pensions Gap report identified a substantial difference between the average level of pension benefits built up by male and female scheme members. The difference is 34.7 percent for benefits in the CARE scheme and 46.4 percent for benefits in the final salary scheme. For benefits in payment the difference is even greater at 49 percent.

The Scheme Advisory Board (SAB) asked the Government Actuary's Department (GAD) to explore these gender gaps in more depth. GAD provided their findings in June 2023, concluding that there is a complex interaction between the types of work that women do, their career patterns (including part-time working and career breaks)

[1] Using CPIH index

and their ability to progress their careers after taking on childcare or other caring responsibilities.

The SAB is setting up a small working group to consider next steps. The group will be looking at key areas such as: -

- Are there any in-scheme changes that would help address the levels of inequality – for example around the ability to buy back service.
- Can employers be directed to best practice in managing the career paths of those who take time off for caring responsibilities.
- How to communicate with members to ensure they are informed about the potential pension implications of the career choices they make
- How to mainstream this kind of analysis to properly evaluate "what works" and how much is left to do.

5. SCAPE Discount Rate Change

Following the change to the Superannuation Contributions Adjusted for Past Experience (SCAPE) discount rate in March 2023, GAD have issued three batches of new factors which affect member's benefit calculations in the areas of transfers, divorces, early retirements, trivial commutation, and late retirement. Local Government Association (LGA) have produced a transitional table setting out all the changes. Some calculations needed to be put on hold whilst awaiting the new factors, but these have now been cleared. No casework is currently being held up due to the new factors.

LGA have updated the LGPS member website with the new early retirement factors which came into force from 3 July 2023.

Changes to the Public Sector Transfer Club memorandum and factors following changes to the SCAPE rate are still expected.

6. Surpluses working group

The SAB plans to set up a small working group to look at the issues presented by the improving funding position across the Scheme. The objective is to provide general advice for administering authorities and employers that are in surplus or are likely to become so. The kinds of issues this raises include:

1. What impact could / should being in surplus have on employer contributions?
2. When is it appropriate to set a negative secondary contribution rate?
3. What impact could / should being in surplus have on investment and funding strategies? While open defined benefit schemes may not need to de-risk, some employers in the scheme might prefer such a strategy, or some funds may be looking at a different strategy that enables them to realise more of their surplus.
4. How to best communicate being in a surplus position to employers and member representatives? Are communications needed for admitted bodies which could exit and have received their year end figures showing substantial surpluses, or

scheduled bodies which cannot exit but still have questions about the benefits of a surplus position?

7. The Pensions Ombudsman - Incorrect Information Member Factsheet

On 31 July 2023, the Pensions Ombudsman (TPO) published a member factsheet called ‘Incorrect information’. It explains that if someone receives incorrect information, this doesn’t automatically mean the scheme has to ‘honour’ this as their entitlement to benefits is in line with scheme rules. However, where a member makes financial decisions on the strength of incorrect information, then the scheme may have to make good any losses the member has incurred.

8. Guidance on Preparing the Annual Report

The SAB's Compliance and Reporting Committee has identified several areas in the CIPFA guidance for Local Government Pension Scheme Funds on how to prepare the annual report, that require updating and clarification. A priority is to streamline the guidance and reduce duplication with other reporting obligations, wherever possible.

There are proposed improvements around the reporting and categorisation of assets, with a standard proposed template to be provided by SAB. Administrative KPIs will also be reviewed, to enable funds to benchmark themselves effectively against others. SAB aims to have new guidance in place for the 2023/4 reporting period impacting on the Annual Report due for publication in December 2025.

9. Report on pension scam regulations

On 21 June 2023 DWP published a review of the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021. As reported in the regulatory update to the Board in January 2022, these regulations introduced the first and the second conditions relating to transfers out from an occupational pension scheme, and introduced the concept of red and amber flags.

The review has found that although the original policy intent of preventing or minimising the risk of scams remains appropriate, and it is estimated that the regulations have stopped approximately 2000 transfers to possible scams, some aspects of the regulations have not worked so well and there have been a small number of complaints to the Pensions Ombudsman regarding blocked transfers. DWP will be conducting further work with the pensions industry and the Pensions Regulator to consider if changes to the original regulations are appropriate.

10. Investments

Economic Activity of Public Bodies (Overseas Matters) Bill

The Economic Activity of Public Bodies (Overseas Matters) Bill, also known as the Boycotts, Divestments and Sanctions Bill had its second reading in the House of Commons on 3 July 2023. The Bill seeks to ban LGPS administering authorities from making investment decisions influenced by political and moral disapproval of foreign state conduct, except where this is required by formal Government legal sanctions, embargoes and restrictions.

Mansion House Speech/Investment pooling

On 10 July 2023, the Chancellor delivered a speech at Mansion House. The Chancellor announced a number of measures aimed at increasing returns for savers and encouraging growth.

The announcements included a consultation on accelerating the pooling of LGPS assets in England and Wales, and this consultation was launched by the Department of Levelling Up, Housing and Communities on 11 July 2023.

100% of the Fund's assets are under management with Local Pensions Partnership Investments Limited and over 95% of the Fund's assets in pooled vehicles. This has resulted in investment management fee savings for Lancashire County Pension Fund of £20.8m in 2022/23 and a total £61.1m worth of savings since pooling began in 2016. These savings have continually been re-invested into the Fund to give greater returns.

A consultation response was considered by the Pension Fund Committee at its meeting on 15th September 2023 and submitted ahead of the closure date on 2nd October 2023. A copy of the response is being made available for Board members in the online pension library.

Key themes within the consultation included:

1) **Increased pace of pooling** –a short-term requirement for pension funds to transition all listed assets to pools by 2025. The Fund is already 100% transitioned.

2) **Levelling up** – an ambition for pension funds to invest up to 5% of their assets under management in projects which support the levelling up agenda. The Fund already has significant investment in local property and UK infrastructure which we expect to exceed government targets; and

3) **Private equity** - an ambition for pension funds to allocate 10% of their assets to this asset class. The Fund currently invests over 8% of assets under management in private equity.

There was also a suggestion of a long-term direction of travel to increase pools assets under management to in excess of £50bn.

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