

Lancashire Local Pension Board

Meeting to be held on Tuesday, 9 July 2024

Electoral Division affected:
N/A;

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 effectively.

Recommendation

The Board is asked to consider and comment on the content of the report.

Detail

1. McCloud

The [McCloud Remedy Statutory Guidance for the LGPS](#) in England and Wales has now been published. The guidance aims to achieve a consistent application of the remedy across the LGPS and provide additional guidance on certain technical issues.

To process underpin calculations for members, Local Pensions Partnership Administration Limited (LPPA) need to firstly validate a member's data and secondly determine if a member is in scope of the remedy. An update is provided elsewhere on this agenda covering progress made on data validation and member identification.

Processing member benefits

The statutory guidance formalises how McCloud remedy cases should generally be prioritised and, in practice, the 'underpin' has started to be applied for eligible members of Lancashire County Pension Fund who are progressing through the retirement process. Early indications of processing retirement benefits have found that less than 1% of members in scope of the McCloud remedy and retiring at normal pension age are benefiting from the underpin and between 1%-5% of those retiring early are benefiting from the underpin.



The date of implementation is confirmed as 31st August 2025 i.e. retrospective changes to benefits should have been made for members that have already retired, data should be up to date for all members, and annual benefit statements (ABSs) for 2024/25 should reflect the McCloud remedy. Functionality to revisit historic cases is not available to LPPA until October 2024, enabling the bulk processing of these cases.

Inclusion of the 'underpin' in annual benefit statements.

The statutory guidance confirms that the inclusion of the 'underpin' in annual benefits statements is not required until 2024/25 production. However, this does require legislation to exempt this year's statements but has been delayed due to the General Election. It is hoped that if legislation is not put through before 31st August 2024, that the Pension Regulator will be understanding of funds not reflecting the remedy in this year's statements.

HMRC guidance regarding remedy cases

On 4 April 2024, HMRC confirmed that the remedy is not retrospective for tax purposes, so if a member has retrospective changes made to their benefits, there is no change to the amount of lifetime allowance used up when the member's benefits originally came into payment (referred to as 'crystallised'). Increased benefits that arise on or after 6 April 2024 must be considered against the new lump sum allowances that have been introduced following the abolition of the lifetime allowance on 6 April 2024.

In addition, HMRC confirmed on 25 April 2024, that interest payments on arrears or top-ups arising from McCloud recalculations are to be treated as authorised payments, so will not be subject to an unauthorised payment tax charge.

2. Remedy Costs- Judicial Review

Under the Scheme Advisory Board (SAB) cost management process, scheme costs across all LGPS Funds are measured at each actuarial valuation and if costs move too far from a target cost, then member benefits or contributions must be adjusted to return costs to the target level. The government decided that the McCloud remedy should be included in the actual scheme costs for comparison against the target cost.

The Court of Appeal has been deciding whether the Government's decision to pass the remedy costs on to members in this way is lawful. A judgement published on 17 April 2024 confirmed that the Court of Appeal agreed with the earlier ruling of the High Court, and it was found legitimate that the McCloud costs were treated as member costs within the 2016 cost management process. Consequently, there is no requirement to revisit the outcome of the 2016 scheme-wide valuation.

However, the unions are now seeking permission to appeal to the Supreme Court over the government's use of the cost management process.



3. Cost control mechanism

In addition to the SAB cost management process mentioned above, there is another control referred to as the cost control mechanism which is operated by HM Treasury and covers public service schemes. Developments on this mechanism are provided below.

On 11 April 2024, the Government's Actuary Department (GAD) published the results of the 2020 valuation and confirmed that the scheme 'cost cap corridor' has not been breached and no changes will need to be made to LGPS member benefits or contributions.

The 'cost cap corridor' is set at 3% for the scheme. While the 'core cost' was 3.2% below the target cost, so slightly below the corridor, there is also an 'economic check' that takes account of the wider economic situation. This also lies outside the 3% corridor but in the other direction (7.3% above the target cost), therefore the 'cost cap corridor' as a whole has not been breached.

The Scheme Advisory Board (SAB) will now undertake a final cost assessment – as part of the mechanism under (2) above - to ensure the scheme remains affordable and sustainable and will publish the results shortly. However, initial results are that *'it is not minded to recommend to the Secretary of State any changes to LGPS benefits through that process.'*

4. Annual Report Guidance

New guidance on 'Preparing the Pension Fund Annual Report' was published on 28 March 2024. This explains that administering authorities should use their 'best endeavours' to comply with the requirements for the 2023/24 report, due by 1st December 2024, but exercise judgement where compliance would require disproportionate effort or cost.

Fund Officers have undertaken an impact assessment and are working with the relevant stakeholders to produce this year's annual report and accounts which includes administration performance data provided by LPPA and Investment and Pooling information by Local Pensions Partnership Investments Limited (LPPI). A draft version of the Annual Report and Accounts will be available to the Local Pension Board as part of the September Pension Fund Committee paper.

The new guidance can be found here <https://lgpsboard.org/index.php/board-publications/board-guidance>

The Scheme Advisory Board (SAB) expect to undertake a brief review of the guidance towards the end of 2024 to obtain feedback from administering authorities on their experience of implementing the new guidance.

5. Pensions Dashboard



Following the Technical Workshop, clarity has been provided by the Pensions Dashboard Programme regarding the connection deadline and the Dashboard Available point (DAP).

The connection deadline for Public Sector Pension Schemes is 31st October 2025 and once a provider connects to the dashboard, then duties such as remaining connected, undertaking matching against find requests, registering pensions found and returning view data, all apply.

However, the launch of the service to the general public as a whole is the point at which the Secretary of State determines the service is ready for widespread use (Dashboard Available Point (DAP)) and 6 months' notice of the DAP will apply. This date will depend on there being sufficient coverage and the dashboard working effectively (which will rely on testing – see below).

Prior to the launch to the general public, it will only be individuals invited by or on behalf of the Money and Pensions Services (MaPS) to help test the service or to support service improvements that will be using dashboards services, but this testing will require providers and schemes to be connected and to receive and respond to find and view requests in line with their duties under the legislation.

Large scale interaction between Lancashire County Pension Fund members and the dashboard, thereby raising queries for LPPA is not likely to take place until a date later than 31st October 2025, though the date of the DAP is yet to be confirmed. In practice, the DAP could come before the connection deadline.

6. Efficiencies in Local Government and management of LGPS funds

On 15 May 2024, The Local Government Minister, Simon Hoare MP, wrote to all administering authorities in England asking them to set out their approach to efficiencies in their management, governance, and administration of their LGPS Fund and asset pool.

Specifically, the Minister requested that responses included details on how the authority will complete the process of pension asset pooling to deliver the benefits of scale and how the authority will ensure the LGPS Fund is efficiently run, including if the Fund would be likely to achieve long-term savings and efficiencies if our LGPS Fund became part of a larger fund through merger or creation of a larger pensions authority.

The letter follows the increase in pressure to pool assets, as well as numerous communications setting out the government's preference for a smaller number LGPS funds. Despite the General Election on 4 July 2024, administering authorities are expected to respond by the deadline of 19 July 2024 and a response is being drafted by Fund Officers.

7. 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 Lords on 20 February 2024.

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.

As the Bill has not proceeded through all stages of Parliament before the General Election was announced it will now need to be picked up by the new government if it is to become law.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Legal

N/A

Financial

N/A

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
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N/A

Reason for inclusion in Part II, if appropriate

N/A

