

London Borough of Enfield

Local Pension Board

2 December 2020

Subject: Pension Team Update

Cabinet Member: Cllr Maguire

Executive Director: Executive Director Resources

Purpose of Report

1. The purpose of this report is to provide the Local Pension Board with an update on current pension issues, developments and performance such as £95k Exit Cap paper and McCloud update paper.

Proposal

2. Pension Board is recommended to note the contents of this update

Reason for Proposal(s)

3. No actions are required

Background

Updates

4. **Staffing.**

The newly created role of Senior Principal Pensions Officer has been filled with a 3 month secondment. The post holder will be overseeing the day to day admin function and it is expected that the post will be filled permanently in the New Year. This will allow the Pension Manager to concentrate on priority area's whilst giving a greater balance to both the admin and systems (project based) areas of the Pension Team.

We currently have 2 vacancies, with a further member of staff leaving at the end of November. Following a recent recruitment campaign, we look forward to welcoming two new members to the team who bring a diverse and much needed set of skills and experience.

Our apprentice completed and passed his studies in August and we hope to welcome a new apprentice in the New Year. The majority of Exchequer staff

were recruited via the Apprentice scheme and it remains a very useful avenue to employment.

We have recently responded positively to the launch of the Kickstart Scheme, which provides work placement opportunities for 16 to 24 year olds on Universal Credit who are at risk of long-term unemployment. The new Kickstart scheme will provide young people to learn transferrable skills and build their experience.

The Team will receive funding for 100% of the relevant National Minimum Wage for 25 hours a week, plus associated employer National Insurance contributions and employer minimum auto-enrolment pension contributions. We look forward to welcoming a young person to the team.

5. The recording of death notifications

Following a request from the Scheme Advisory Board, the Team have been assisting with the collection of death data to help understand the impact of COVID-19 on the LGPS. The data needed is the total number of member deaths each calendar month, going back to February 2020. From November 2020 the data will be collected on a quarterly basis.

New death reporting			
Month	LGPS deaths	TCP deaths*	Total deaths
October	14	0	14
September	10	1	11
August 2020	20	1	21
July 2020	11	1	12
June 2020	15	3	18
May 2020	24	3	27
April 2020	12	2	14
March 2020	11	4	15
February 2020	12	5	17

*TCP = Teachers Compensation pensions

6. Good Governance

Governance has increasingly moved to prominence in the last decade. The LGPS has seen the introduction of an oversight role from The Pensions Regulator, expanded oversight by MHCLG and the introduction of Local Pension Boards.

The Scheme Advisory Board (“SAB”) appointed Hymans Robertson to assist with its Good Governance project in early 2019. The brief was to examine the effectiveness of the various current LGPS models; who were then to consider alternatives or enhancements which would help to take the good practice of the best funds and make it universal. It was made clear from the start that any proposals put forward must maintain the strong democratic local

accountability that exists currently within the LGPS; in short, separation of LGPS funds from local authority structures was not on the cards.

The Good Governance project has developed so far in two phases.

Phase I was carried out by Hymans in spring 2019. Hymans engaged with over 200 stakeholders, and 76 funds across England and Wales. The report submitted to SAB in July 2019 recognised that no single governance model is appropriate for all funds; rather than focus on how funds are set up to deliver the LGPS function, it is more sensible to focus on the outcomes they deliver. The report went on to propose that funds should report their level of compliance against a governance framework: this would include areas such as conflict management, sufficiency of resource and budget, and representation on governance committees and boards.

Phase II involved bringing together two working groups to further develop ideas. In attendance were The Pensions Regulator and MHCLG. The Phase II report was accepted by the SAB in November last year and brings more detail to areas such as publishing a governance compliance statement, budget setting, and the independent review process.

Good Governance Phase II calls for statutory guidance to set out the standards that LGPS funds are expected to meet.

Phase III which has been slowed by COVID19 is also due to restart and funds are advised that they might want to consider their conflicts of interest policy and ensure it really does address all the actual, potential and perceived conflicts that exist in the LGPS. Or maybe try reviewing the fund's decision-making processes; where are key decisions made, who is responsible for delivery of those decisions, who needs to provide oversight and is what you've documented reflected in the constitution? A full review of all mandatory and best practice policies, as identified by the Pensions Regulator is also recommended.

The proposed new role of 'LGPS Senior Officer' should ideally not be held by a Council's Section 151 officer, two leading figures involved in a review of governance in the Local Government Pension Scheme have indicated.

Also mentioned in the PSLA conference on Good Governance also covered the possibility of statutory requirements around training.

7. Pensions Dashboard

The national introduction of a Pensions Dashboard is a positive development on the Pensions landscape allowing members of the public to see all their pension benefits in one online location.

Pensions dashboards are the public facing user interfaces that will enable individuals to access their pensions information online, securely and all in one place, thereby supporting better planning for retirement. Dashboards will provide clear and simple information about an individual's pension savings, including their State Pension. They will also help them to reconnect with any lost pension pots.

The Money and Pensions Service (MaPS) has established the Pensions Dashboards Programme team, to design and implement the infrastructure that will make pensions dashboards work and will enable individuals to view all their pensions data via their chosen dashboard.

The vision of the Pensions Dashboards Programme is to: “to enable individuals to access their pensions information online, securely and all in one place, thereby supporting better planning for retirement and growing financial wellbeing”. Chris Curry, Principal of the Pensions Dashboards Programme.

No data is held on the dashboard, it is not therefore a database but viewed more as a switchboard, connecting members to schemes.

Current programme phase;

2020 Programme set up and planning

2021 Develop and test phase

2022 Voluntary onboarding and ongoing test

2023 staged onboarding and Dashboards available

Issues raised by the Data working group include;

Plans to include the State Pension benefit on the dashboard, seen as central by the industry, are being questioned by the government.

One Pensions dashboard is also now been questioned by the government who are now looking at possible multiple dashboard approaches with commercial aspects.

The Government also is also currently favouring including transfer out details for members, which is a concern to the industry, as it may be seen as encouraging members to transfer out to riskier options and also encourage more scams.

8. Guaranteed Minimum Pension (GMP)

There are currently three on-going elements connecting to GMPs:

- a) GMP reconciliation – affects all pension funds
- b) Public Sector Pensions GMP indexation consultation – proposal to extend full indexation (October 2020 – ends 30th December 2020)
- c) GMP equalisation

Updates:

- a) No further update received in respect of data matches from HMRC.
- b) On 6th 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 GMP fully price protected.

An interim solution was introduced, which was later consulted on and extended until 5th April 2021 this interim solution was that the cost of this solution was passed onto the public service pension schemes.

A new consultation has been launched again in view of the impending 5th April 2021 date which the Government has confirmed it would not be able to implement a conversion by this date. The three solutions proposed to address the challenge of GMP indexation:

- extend full indexation to cover those reaching state pension age up to and including 5 April 2024
- extend the interim solution to cover those reaching state pension age beyond 5 April 2024, for example to March 2030
- discount conversion as a long-term policy solution and make full GMP indexation the permanent solution for public service pension schemes

The GMP working group has fed in its views to HMT and all the public sector schemes all seemed to favour extension of an interim solution.

c) GMP equalisation

GMP equalisation refers to the (now legal) requirement to equalise pension benefits to remove the effects of unequal GMPs for males and females. HM Treasury have confirmed that the GMP judgement “does not impact the current method used to achieve equalisation and indexation in public sector pension schemes”. The current method (‘interim solution, which is covered in the previous point, B) used to achieve equalisation and indexations of GMPs in public sector pension schemes is expected to continue until 6th April 2021. HMT published a Ministerial Direction on 4 December 2018 to implement this outcome, with effect from 6 April 2016.

9. Survivor Benefits

20th July 2020 - Statement on equalising male survivor benefits in public service pension schemes

On 20th July 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 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 will await further consultation on how this equalisation will proceed.

10. SF3 Data Published for 2019-20

MHCLG published the annual LGPS SF3 statistical data on the 4 November 2020 for England and Wales: 2019 to 2020. Highlights include:

- total expenditure of £13.4 billion, an increase of 5.6% on 2018/19
- total income of £16.0 billion, an increase of 2.6% on 2018/19
- employer contributions increased by 7.7% on 2018/19 to £7.7 billion
- employee contributions of £2.3 billion
- the market value of LGPS funds in England and Wales on 31 March 2020 as £272.4 billion, a decrease of 5.1%
- there were 6.1 million scheme members on 31 March 2020, 2.0 million active members, 1.8 million pensioners and 2.2 million deferred members
- there were 88,232 retirements in 2019/20, an increase of 5.7% compared with 2018/19.

11. Government confirmed intention to increase in minimum pension age

In an answer to a parliamentary question on 3 September 2020, the Government confirmed that it still plans to increase the minimum pension age from 55 to 57 in 2028 and will legislate in due course.

The Government confirmed in 2014 in its response to the consultation 'Freedom and choice in pensions' that it intends to increase the minimum age from 55 to 57 in 2028 and that the change will apply to all schemes, aside from those in the public sector that do not link their normal pension age to State Pension age, namely Firefighters, Police and the Armed Forces.

12. The Pension Regulator (TPR) - Consolidation of Codes of Practice

TPR has confirmed that it now intends to launch the formal consultation on a single Code of Practice in early 2021. The harmonisation of the 15 codes of practice, covering topics such as early leavers, internal controls and governance and administration of public service pension schemes is welcome.

Nick Gannon (TPR) confirmed at the PLSA conference 12th November, that the review intended to be topic-based modules, common expectations that are clear and concise and improved navigation. There would be very few new expectations with more of a focus on governance, policy and procedures.

13. Government responds to simpler annual benefit statement consultation

The DWP ran a consultation seeking views on simpler annual benefit statements in 2019.

The DWP published the Government response to the consultation on 19 October 2020. Although defined benefit and public sector schemes were not in scope, the response acknowledges that there will be opportunity to learn lessons about the potential applicability to them in the future.

There were 66 respondents including Tim O'Connor in a personal capacity.

The response includes a commitment to a further consultation later this year on mandatory simpler statements for defined contribution schemes that are used for automatic enrolment.

14. Team Performance

The tables below set out work completed in Quarter 2 (July to September 20) against targets.

Specific Targets

Activity	Target (Working days)	Total Cases processed	% achieved within target
Retirements	25	74	99%
Deaths	40	30	77%
Transfers In/Out	45	94	71%
Deferred Benefits	15	403	90%
Opt outs	15	37	97%
Statutory notice	5	415	100%

Miscellaneous Activity and Requests

Activity	Total Cases processed	Number completed within target	% achieved within target
Miscellaneous	948	938	99%

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18th November 2020

Links to additional supporting papers

Kickstart scheme

<https://www.gov.uk/government/collections/kickstart-scheme>

Good Governance

Hymans

<https://www.hymans.co.uk/insights/blogs/blog/scheme-advisory-board-good-governance-project/>

The Pension Regulator

<https://www.thepensionsregulator.gov.uk/en/trustees/21st-century-trusteeship/1,-d,-good-governance>

Pensions Dashboard

<https://www.pensionsdashboardsprogramme.org.uk/>

Pensions Dashboards Programme Call for Input: working paper on data standards

<https://www.pensionsdashboardsprogramme.org.uk/2020/07/06/data-standards-call-for-input/>

The quest to define data standards – blog 2 September 2020

<https://www.pensionsdashboardsprogramme.org.uk/2020/09/02/the-quest-to-define-data-standards/>

GMP update

<https://www.gov.uk/government/consultations/public-service-pensions-guaranteed-minimum-pension-indexation-consultation>

Intention to increase retirement age

<https://questions-statements.parliament.uk/written-questions/detail/2020-08-28/81494>

PLSA – GMP equalisation guide

<https://www.plsa.co.uk/Portals/0/Documents/Made-Simple-Guides/2020/GMP-equalisation-Made-Simple-June-2020.pdf>

Survivor Benefits

<https://questions-statements.parliament.uk/written-statements/detail/2020-07-20/HCWS397>

DWP – Simpler annual Benefit Statements

<https://www.gov.uk/government/consultations/simpler-annual-benefit-statements-for-workplace-pensions>

<https://www.gov.uk/government/consultations/simpler-annual-benefit-statements-for-workplace-pensions/outcome/government-response-simpler-annual-pension-benefit-statements>

Background Papers

Full Key Performance Indicators report for Quarter Two 1st July 2020 to 30th September 2020

London Borough of Enfield

Local Pension Board

2 December 2020

Subject: Pension Team Update

Cabinet Member: Cllr Maguire

Executive Director: Executive Director Resources

Purpose of Report

15. The purpose of this report is to provide the Local Pension Board with an overview and update on the 95k Exit Cap.

Proposal

16. Pension Board is recommended to note the contents of this update

Reason for Proposal(s)

17. No actions are required.

Background

1. In 2016, the *Small Business, Enterprise and Employment Act 2015* was amended to give the Treasury the power to make regulations to prohibit prescribed public sector bodies from making exit payments in excess of a £95,000 cap. The Government said that the measure was designed to prevent large exit payments to “public sector fat cats”, although bodies representing public sector workers expressed concerns that it could hurt lower-paid staff, especially those with long service.
2. Following a consultation in 2019 the Government laid the draft *Restriction of Public Sector Exit Payment Regulations 2020* before Parliament in July 2020. The Regulations were approved by both Houses of Parliament in September and were made (signed into law) on 14 October. They came into force on 4 November 2020.
3. The Regulations prevent relevant authorities from making exit payments in excess of the £95,000 cap. “Relevant authorities” are defined as public

sector bodies listed in the legislation. It captures the majority of the public sector. "Exit payments" are payments made to employees on termination of employment or office holders who leave office.

4. Under the Regulations various payments count towards the exit payment cap. These include redundancy payments, severance payments, settlement agreements and 'pension strain' payments (i.e. additional employer pension contribution to enable an individual to take early retirement on an unreduced pension). It is the total of all exit payments that cannot exceed £95,000.
5. The Government Actuary Department (GAD) research found that of the Local Government employees made redundant between 2013 and 2016, 86% would have lost money under the new rules.
6. LGPS members will no longer be entitled to payment of statutory redundancy pay or discretionary severance pay in excess of the pension strain payments employers are required to make to the scheme when members aged 55 or over are made redundant. Pension strain payments make up pensions to the value they would have reached at the statutory retirement age. Under the new rules this employer contribution will be counted against the cap, something which is not the case for workers in other public sector pension schemes.
7. GAD found the average Local Government worker, aged 59 with 19 years' service and paid £29,000 per year, would find their benefits on redundancy reduced by around 37%. The average loss to members would be around £13,000.
8. The waiver to the cap is extremely limited and the process is equally challenging.
9. The latest consultation by MHCLG, which closed on the 9th November 2020 proposed changes to include:
 - Capping severance payments at a maximum of 3 weeks' pay per year of service or 15 months' salary
 - Imposing a maximum salary level on which calculations for severance pay can be based (currently £80,000)
 - Preventing an employer making a discretionary redundancy payment in addition to a payment into the LGPS (pension strain cost) except in very limited circumstances
 - Provisions to limit payments an employer can make into the LGPS (pension strain cost) where an employee receives a statutory redundancy payment (by reducing the strain cost payment by the amount of the statutory redundancy payment)
 - Making the necessary changes to the LGPS to cater for these changes and the effects of the broader £95,000 cap.

Main considerations for the Council

10. The LBE is the main Scheme Employer and Administering Authority of the Enfield Fund. If members are capped there is legal uncertainty for both Administering Authority and Scheme Employer. There may be potentially several months where LGPS says individuals must receive an unreduced pension and cap rules say the employer can't fund it.
11. As the Employer funds early payment of pension, strain cost calculations are set locally by each Fund actuary and reflect local demographics like mortality rates, a move to national factors will lose this local recognition.
12. The Enfield Fund is currently liaising with AON on the appropriateness of current strain cost calculations. There may be risks associated with making a change, particularly if the new methodology results in lower strain costs. Adopting the GAD methodology may be a reasonable approach, however, this is not without risk. If you adopt a new method of strain cost calculation that results in lower costs, there is a potential for challenge from employers who have recently paid higher strain costs based on the current methodology. The change could also be challenged if it is perceived as a means of avoiding the exit payment cap.
13. MHCLG have recently consulted on proposed changes to the LGPS and compensation regulations which will accommodate the £95k cap and introduce wider exit payment reform, this is expected in early 2021.

14. Exits in Progress

To date no guidance has been forthcoming from MHCLG to address the concerns of those employers who are currently conducting a redundancy exercise. Given the restrictions on discretionary relaxation for reasons of timing in the HM Treasury Direction, Councils and LGPS Administering Authorities are advised to seek urgent legal advice relating to their specific circumstances regarding any exits occurring on or after 4th November that exceed the cap in the period between that date and the LGPS Regulations being amended early next year to expressly remove the entitlement to an unreduced pension under Reg 30(7) which would result in a breach of the cap.

However, subject to any such advice, the SAB opinion which is based on the legal advice it has obtained, is:

“the course of action presenting the least risk to both LGPS administering authorities and scheme employers is for the:

- LGPS Administering Authority to offer the member the opportunity to take a deferred benefit under LGPS regulation 6 or a fully actuarially reduced pension under LGPS regulation 30(5)
- Scheme Employer to delay the payment of a cash alternative under regulation 8 of the Exit Cap Regulations

15. Since being raised as an idea in 2014/15, the actual amount of £95k has not been increased in any way i.e. cost of living, therefore as salaries increase, more members will potentially be affected by this new ruling.

16. Legal Challenges to the Regulations

There are currently four potential challenges to the Exit Cap Regulations by means of Judicial Review. Pre-action correspondence has been issued by the BMA, UNISON, GMB and Lawyers in Local Government /SOLACE/ALACE.

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12 November 2020

Links to Additional Supporting Papers

Initial Government Consultation and Statutory Instrument

Restricting exit payments in the public sector – April 2019 – consultation response issued 21st July 2020

<https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector>

The Restriction of Public Sector Exit Payments Regulations 2020 – Statutory Instrument

https://www.legislation.gov.uk/uksi/2020/1122/pdfs/uksics_20201122_en_001.pdf

<https://www.legislation.gov.uk/uksi/2020/1122/contents/made>

Schedule of employers covered by the Exit cap

<https://www.legislation.gov.uk/uksi/2020/1122/schedule/made>

House of Commons Library

<https://commonslibrary.parliament.uk/research-briefings/cbp-9020/>

<file:///C:/Users/TOCONNOR/Downloads/CBP-9020.pdf>

HM Treasury

Guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/930246/Restriction_of_Public_Sector_Exit_Payments_Guidance_Document.pdf

The Scheme Advisory Board

<http://www.lgpsboard.org/index.php/structure-reform/public-sector-exit-payments>

Response to consultation;

http://lgpslibrary.org/assets/cons/lgpsew/20200907_SABR.pdf

The Local Government Association (LGA)

<https://www.local.gov.uk/reform-local-government-exit-payments>

<http://lgpslibrary.org/assets/gas/ew/Exit%20Cap%20AA%20v1.0.pdf>

Response to first consultation – July 2019

https://www.local.gov.uk/sites/default/files/documents/workforce%20-%20LGA%20response%20-%20Exit%20Payments%20Cap%20-%20July%202019_0.pdf

Response to further consultation – November 2020

http://lgpslibrary.org/assets/cons/lgpsew/20200907_LGAR.pdf

Webinar – 6th November 2020

<https://local.gov.uk/exit-payment-reform-webinar-6-november-2020>

supporting presentation

<https://local.gov.uk/sites/default/files/documents/Exit%20Payment%20Reform%20webinar%202%20slides%20Nov%202020%20for%20website.pdf>

Webinar – 23rd September 2020

<https://www.local.gov.uk/exit-payment-reform-webinar-23-september-2020>

supporting presentation

<https://www.local.gov.uk/sites/default/files/documents/Exit%20Payment%20Reform%20webinar%2023%20September%202020.pdf>

MHCLG

Reforming local government exit pay – consultation – October 2020

<https://www.gov.uk/government/consultations/reforming-local-government-exit-pay>

Letter from Luke Hall MP – dated 28/10/2020

<https://www.lgpsboard.org/images/PDF/letters/MHCLGtoLAs.pdf>

GAD

Factors and guidance

http://lgpslibrary.org/assets/cons/lgpsew/20200929_SG.pdf

LGPC minutes of Meeting – 7th September 2020

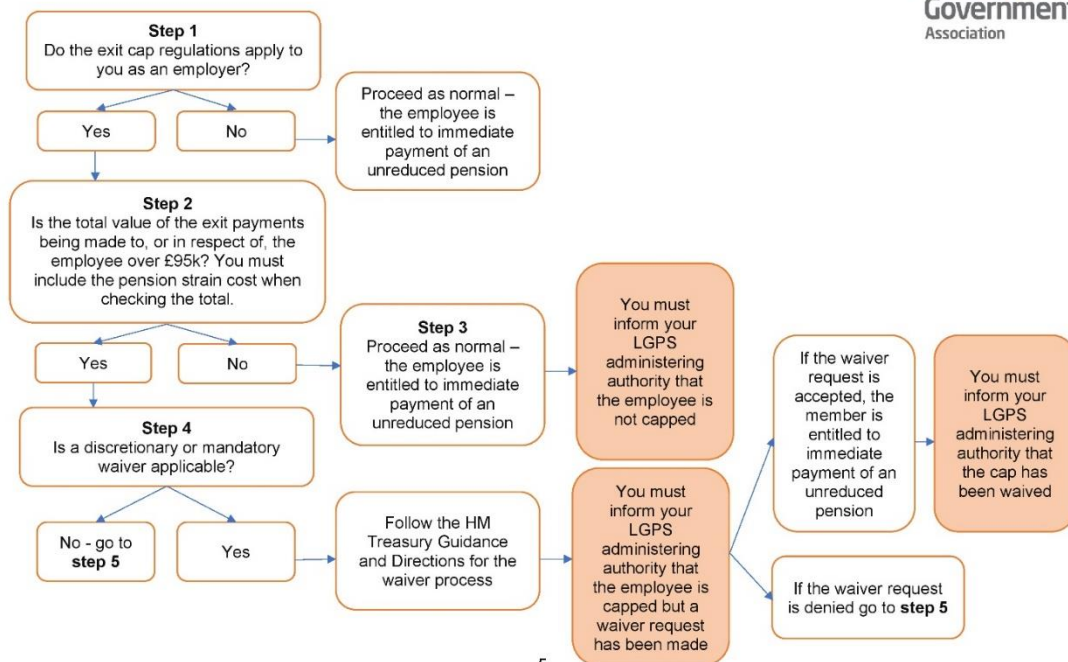
Page 4 and 5 refers to Exit cap

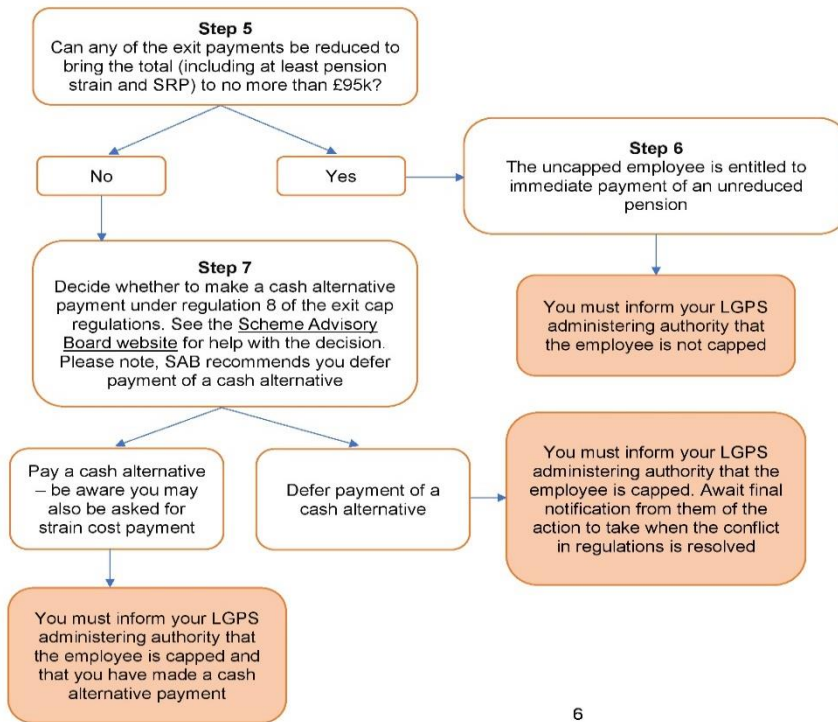
http://lgpslibrary.org/assets/minutes/LGPC20201102_Paper%20A.pdf

LGA 95k Exit Cap Flow chart

http://lgpslibrary.org/assets/gas/ew/ExitCap_Erv1.0.pdf

Exit cap information for LGPS employers – flowchart





6

Background Papers

Aquila Heywood’s (the pension funds administration software suppliers) response to MHCLGs Reforming Local Government Exit Pay consultation.

London Borough of Enfield

Local Pension Board

2nd December 2020

Subject: Pension Team Update

Cabinet Member: Cllr Maguire

Executive Director: Executive Director Resources

Purpose of Report

18. The purpose of this report is to provide the Local Pension Board with an update on McCloud developments.

Proposal

19. Pension Board is recommended to note the contents of this update

Reason for Proposal(s)

No actions are required.

Background

20. What is the McCloud case?

The case concerns the transitional protections given to scheme members, who in 2012 were within 10 years of their normal retirement age, in the Judges and Firefighters Schemes as part of public service pensions reform. Tapered protections were provided for those 3-4 years younger. On 20th December 2018 the Court of Appeal found that these protections were unlawful on the grounds of age discrimination and could not be justified.

21. What are the potential implications of the case?

Those members who have been discriminated against will need to be offered appropriate remedies to ensure they are placed in an equivalent position to the protected members. Such remedies will need to be 'upwards' - that is the benefits of unprotected members will need to be raised rather than the benefits of protected members being reduced.

22. If the case is about the Judges and Firefighters' schemes why does it apply to all public service schemes?

Protections were applied to all members within 10 years of retirement in all public service schemes, with the form that protection took, varying from scheme to scheme. Although the case only relates directly to two schemes the Government has confirmed in a statement by the Chief Secretary to the Treasury on 15th July 2019 'that the principles of the outcome would be accepted as applying to all public service schemes'.

23. Will there be a further appeal?

No. On 27th June 2019 the Supreme Court denied the Government permission to appeal.

24. What happens next?

Proposals concerning who is in scope for protection, the extent of final salary service protection and the effect on ancillary benefits such as transfer payments and survivor benefits are contained in the consultations published on the 16th July 2020 by HMT and MHCLG.

The Scheme Advisory Board (SAB) are working closely with MHCLG and GAD to ensure that the remedy to remove age discrimination from the LGPS is comprehensive. SAB have set up two working groups to assist with the development and implementation of the remedy. A policy group is assisting MHCLG with areas of policy that are not centrally determined. A larger implementation group is made up of member representatives, practitioners, employer actuaries and software providers and is considering the significant challenge of implementing the remedy.

The consultations ran until October 2020 after which the nature and timing of the primary legislation necessary to bring forward changes to the schemes will be developed. It is government's intention for legislation to be in place by April 2022.

25. What LGPS protections are in scope for McCloud?

Unlike other public service schemes, the LGPS moved all members into the CARE scheme whatever their age. Those active members who were within 10 years of their 2008 scheme normal pension age on 31st March 2012 were protected via the statutory underpin. Protected members who meet the criteria for the underpin to apply, currently receive the better of their CARE pension or one calculated under 2008 scheme rules.

26. What remedy does the consultation propose for the LGPS?

The MHCLG consultation proposes that a two-part revised underpin will apply to all members who meet the criteria for protection regardless of their age in

2012. The revised underpin will also apply to early leavers and will take account of early/late retirement adjustments.

It is proposed that the revised underpin will extend to qualifying members who have left the scheme since April 2014 as well as active members. It will also apply to death in service and survivor benefits.

27. The most recent MHCLG consultation estimates the cost of today's proposals will be £2.5bn to LGPS employers in the coming decades, based on annual future long-term pay growing by CPI plus 2.2%. This was the assumption used by the GAD for the 2016 valuation of public service pension schemes. However, the documents note that it is "not possible to say precisely how the proposals may impact on any individual employer's contribution rate".

28. However, one theory raised is that lower than expected pay rises since 2014 may mean that most scheme members will not see an increase in their LGPS benefits as a result of the change.

Main Considerations for the Council

29. This will be a significant exercise to review all member including the recalculation of benefits for leavers since 1 April 2014. Administering authorities must gather service data from employers in order to run an underpin calculation for scheme members who will be in scope of the revised protection.

30. MHCLG published a consultation on amendments to the statutory underpin. The consultation sought views on proposed changes to the LGPS in England and Wales to remove the unlawful age discrimination identified in the McCloud judgment. The 12-week consultation closed on 8 October 2020. Con Hargraves (senior policy adviser, local government finance stewardship, at the MHCLG) discussed the consultation with the group.

31. The main risks identified centre largely around resource, timing and the reliance on an automated solution to upload the historical data to the pensions administration systems as well as a strong desire from Pension Funds for national guidance and communications.

32. The administration team will be reviewing resourcing once both initial scoping exercise has been completed and more information from our software suppliers was provided and we have already been in discussion with Aquila Heywood's, our administration software supplier regarding automated solutions. A national solution is currently in development.

33. System changes will be needed to enable LGPS administering authorities to calculate benefits correctly in the future. It is estimated that it will take up to nine months for pension administration systems to be updated to reflect the changes.
34. There will be no immediate changes to employer contribution rates in response to the change in regulations. Any increase in costs will need to be considered and taken into account when employer contribution rates are set after the next valuation.
35. A possible risk to note is the legislative logjam that may be caused by Brexit which could delay legislation needed to implement government proposals to remove unlawful age discrimination from the Local Government Pension Scheme. This was raised by Jeff Houston, secretary to the LGPS Advisory Board, at the Pensions & Lifetime Savings Association local authority update 2020 conference – 11th November.
36. Another related issue was in respect of the Government proposals to give LGPS members details on their annual benefit statement of how they would be affected by its remedy to unlawful age discrimination in the scheme. These have run into strong opposition from LGPS administrators.
37. Con Hargrave, senior policy adviser, local government finance stewardship, at the MHCLG, told the Pensions & Lifetime Savings Association's local authority update 2020 conference on 11th November that including this information on the annual statements had aroused the "strongest reaction" in the consultation responses, with many warning that including the additional figures on the statements could cause confusion, asking how they would explain to members why the figures change every year, and questioning whether software would be able to fully automate the figures.
38. It was noted that responses from some employers and unions were more supportive of the estimates being included, and the government would have to "achieve a balance overall".
39. It was noted that the MHCLG ministry document acknowledges that "retrospective application of the proposed draft regulations will lead to significant administrative complexity".

Current Approach from LB of Enfield Pension Fund

40. The fund is currently identifying members who may be in scope of the McCloud judgement, splitting these into active, deferred, pensioners, transfers out, deaths, trivial commutations.

41. The next stage is to complete a deeper investigation into the members service to ensure there is no missing data – e.g. part-time hours were no longer required to be held in the CARE scheme from 1/4/2014, although some funds continued to keep changes of hours, LB of Enfield Pension Fund made the decision not to record any changes from the change to the career average scheme.
42. The introduction of monthly i-Connect reporting from 2017 reintroduced the recording of part-time hours but the three-year gap will need to be reviewed.
43. Resourcing the project will need to be confirmed and agreed.
44. Finally, missing data will need to be requested and provided by employers in readiness to apply the automated solution when it becomes available.

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Links to supporting information

Ministerial Statement made on 25th March 2020

<https://questions-statements.parliament.uk/written-statements/detail/2020-03-25/HLWS182>

<https://www.gov.uk/government/consultations/public-service-pension-schemes-consultation-changes-to-the-transitional-arrangements-to-the-2015-schemes>

HM Treasury

Consultation – July 2020

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900766/Public_Service_Pensions_Consultation.pdf

Scheme Advisory Board (SAB)

McCloud Q&A

<http://www.lgpsboard.org/index.php/structure-reform/cost-management/ccmcloud>

Main Page

<http://www.lgpsboard.org/index.php/structure-reform/cost-management/ccmcloud>

Response to MH Treasury consultation – 8th October 2020

http://www.lgpsboard.org/images/PDF/letters/SAB_DRAFT_MCCLLOUD.pdf

LGA

Response to MH Treasury consultation – October 2020

http://lgpslibrary.org/assets/cons/nonscheme/20200716_LR.pdf

The Technical Group

MHCLG Report For LGPS Technical Working Group – 1 October 2020

<http://lgpslibrary.org/assets/minutes/TG20201001AppE.pdf>

Communications Working Group (McCloud pages 7-8)

<http://lgpslibrary.org/assets/minutes/CWG20200929.pdf>

LGPC minutes

http://lgpslibrary.org/assets/minutes/LGPC_20201102_combined.pdf

Legal Opinion

Squire Patton Boggs

http://lgpslibrary.org/assets/opinions/20200728_McCloudGDPR.pdf



HM Treasury

Important Choice for Public Servants – Your Pension

In 2015 most public service pension schemes were reformed. These reforms included 'transitional protection', for people closer to retirement. The Courts have ruled that this directly discriminated against some younger pension scheme members.

The government's proposals to remove the discrimination will apply to all pension scheme members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years.

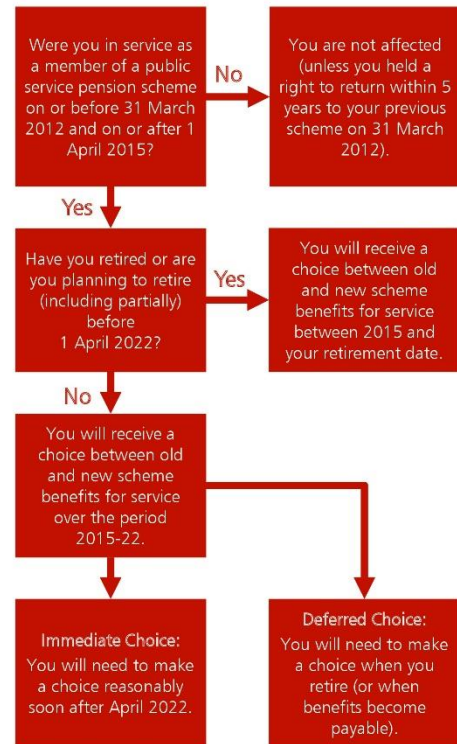
Many affected members will benefit from this change.

Changes to the judicial and local government pension schemes are being consulted on separately. For everyone else, the government will provide affected members with the option to choose between their old (mostly final salary) and new (career average) pension scheme benefits for service between 1 April 2015 and 31 March 2022.

The government is seeking views on how this choice might work. There are two different proposals:

- 1. An Immediate Choice Exercise**
The choice will be made by members as soon as practicable.
- 2. A Deferred Choice Underpin**
Members would remain in, or be returned to, the old schemes for service between 2015 and 2022. At the point of retirement (or when benefits become payable) or as soon as practicable (for members who have already had a pension award), members would be then able to choose to instead receive new scheme benefits for that period.

Are you affected?



Future Pension Provision

The total annual cost of public service pension scheme benefits stood at **£41.8 billion** in 2018-19, most of which fell to the taxpayer.

The 2015 reforms to public service pensions increased fairness and affordability. The government believes these schemes provide good pension provision and continue to be more generous than most private sector pensions.

All public servants who are building up benefits in the main public service pension schemes will be placed into the 2015 reformed pension schemes from 1 April 2022, regardless of when they joined, therefore providing equality of treatment. Changes to the judicial and local government pension schemes are detailed separately.

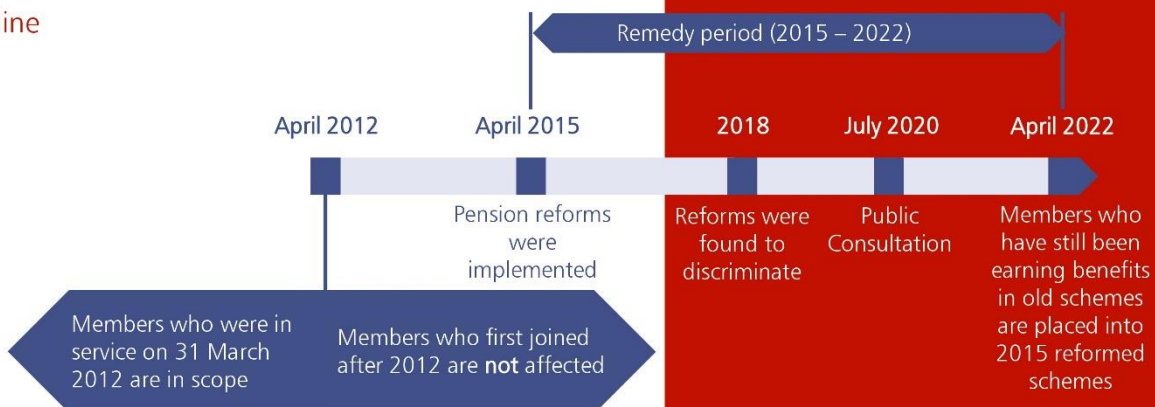
Further Information

The government is currently consulting on these proposals in advance of introducing them into law.

Anyone can feed in their thoughts on these proposals by responding to the consultation.

This leaflet does not provide a detailed explanation of individual members' legal entitlements. These would be provided for in scheme rules, which would override anything in this leaflet where there were differences between the leaflet and rules.

Timeline



Member FAQs

Who is in scope of the consultation proposals?

Scheme members who were serving on or before 31 March 2012 and still serving on or after 1 April 2015 will be in scope of these proposals.

This includes those members who are currently active, deferred or retired, and those with a qualifying break in service of less than 5 years.

You do not need to put in a legal claim to be eligible for the changes proposed in the consultation.

Why are members who joined after 31 March 2012 not in scope?

The Court of Appeal's ruling identified unlawful discrimination between older and younger members in service on or before 31 March 2012. It is therefore these groups that the government are now equalising treatment between.

What do I need to do?

The government is consulting on proposals to remove the discrimination. This is your opportunity to put forward your views. Details of how to respond are set out in the consultation document.

What are the deadlines to respond?

This consultation will run for 12 weeks and will close on Sunday 11 October. Details of how to respond are set out in the consultation document.

When will the government confirm details of the changes to pension schemes?

The government will make a decision on the changes following consideration of the consultation responses. After that it will be some time before any changes are implemented as they will require legislation and new systems to be put in place.

Why are these changes necessary?

The government is committed to removing the discrimination for all those affected. It cannot simply return everyone to their old scheme because many people are better off in the new schemes. The government is therefore giving members the choice.

Will those protected by transitional protection also receive a choice between the new and old schemes?

Yes, members who originally received transitional protection will also be provided with a choice of which scheme benefits they would prefer to receive for the remedy period.

What's happening after the remedy period?

The remedy period ends on 31 March 2022. After that all active members will be placed into their 2015 scheme.

How will this affect those who have retired or will retire before 2022?

All affected members will be given a choice between old and new scheme benefits for service between 2015 and their retirement date.

Where possible the choice will be offered at retirement. Where this is not possible the choice will be offered as soon as practicable after legislative changes are implemented. Any change to benefits will be backdated.

Background Papers

None