

Agenda Item: 9

Local Pension Board

Meeting Date: 15.09.2022

Subject: Pension Team Update Report

Cabinet Member: Cllr Leaver

Executive Director: Fay Hammond

Key Decision: n/a

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 in accordance with the Local Government Pension Scheme (LGPS)

Proposal

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

Reason for Proposal

3. The Local Pension Board is responsible for ensuring that the Enfield Administering Authority complies with LGPS regulations and associated legislation as well as adhering to requirements as set out by The Pensions Regulator.
4. To assist members of the Local Pension Board with their role and responsibilities, the Pension Team are required to provide regular updates.

Updates

5. Prudential performance update

Representatives from Prudential attended the Scheme Advisory Board (SAB) in December 2021 to discuss the performance issues experienced by administering authorities since November 2020.

At that meeting, Prudential agreed to produce a communication to explain:

- the issues that have arisen
- the steps that have and are being taken to resolve the situation
- the expected timescales for normal service to be resumed

Prudential have written to Jo Donnelly, Head of Pensions at the LGA and have provided an update which is attached

This letter is attached as part of the supporting background papers.

6. **Special Severance Payments**

On 12th May Department for Levelling Up, Housing and Communities (DLUHC) published statutory guidance on making and disclosing Special Severance Payments, which are additional payments over and above statutory and contractual requirements that may be made when someone leaves employment.

The guidance applies only to Best Value Authorities in England and confirms the Government's position that Special Severance Payments are not good value for the taxpayer and should only be made in exceptional circumstances.

Following responses to consultation in July 2021, the new guidance makes clear that a LGPS pension strain, paid by an employer when an LGPS member is made redundant is not a Special Severance Payment.

Please refer to Appendix 1 for more information.

7. **HMRC - Pension Scheme Newsletter 138**

HMRC published the newsletter on 29th April 2022.

The newsletter highlights:

- HMRC updated its annual allowance calculator to include the 2022 to 2023 tax year
- Changes to Scheme Pays reporting deadlines in some cases following the introduction of the Registered Pension Schemes (Miscellaneous Amendments) Regulations 2022 (see Bulletin 223 for more information)
- A reminder to act now to migrate your pension scheme to the Managing Pension Schemes service *
- Accounting for tax returns for the quarter ending 31st March 2022 must be submitted through the Managing Pension Schemes service.

* Enfield Pension Funds migration has been completed and the tax return for Q4 31.03.22 has been submitted and paid.

HMRC were very helpful and assisted us to achieve a successful migration. Although the Managing Pension Schemes gives the same service, HMRC were more streamline and user friendly and therefore easier to use.

Unlike the previous system this service allows more than one member of staff to have login details, so we may consider rolling out to other members of the team.

8. New legal requirement to ‘nudge’ AVC members to Pension Wise guidance

The Department for Work and Pension (DWP) has responded to the stronger nudge to pensions guidance consultation. Regulations will require administering authorities to ‘nudge’ members with in-house AVCs towards Pension Wise guidance when they apply to take their AVC or transfer their AVC fund from 1st June 2022. The administering authority will also have to offer to make the appointment on the member’s behalf.

The requirement also applies when a member aged 50 or over contacts the Pension Team about transferring their in-house AVC to another defined contribution scheme to access them. Members can, however, opt out of taking Pension Wise guidance.

The Government’s aim is to protect people by helping them make informed decisions when they access their defined contribution (DC) saving. Pension Wise is a government service from Money Helper that offers free, impartial pensions guidance about DC pension options.

A joint response to the consultation was submitted by the LGA and the LGPC in September 2021.

The DWP has taken some of the issues raised in that response into account in their response. The Pensions Regulator has updated its Communicating and reporting guidance to include the requirement to direct members to Pension Wise guidance in certain circumstances.

On 10th May 2022, the LGA pension team published a technical guide providing further information to administering authorities regarding the new requirements by updating the existing AVC technical guide.

Please refer to Appendix 2 for more information.

9. Updates from the Pensions Dashboards Programme (PDP)

The aim of the pensions dashboards is to allow scheme members to see information about all their pensions, including the State Pension, securely online.

Making sure funds are ‘dashboards ready’

The DWP launched a consultation in January 2022 on draft regulations to achieve this. The six-week consultation closed on 13th March. It was noted that six weeks was a relatively short period to respond comprehensively to the issues raised in the consultation document, draft regulations and draft standards which amount to several hundred pages.

The consultation and draft regulations propose that public service pension schemes will have to connect with the dashboards by 30th April 2024 at the latest. Administering authorities will have a legal duty to provide information in response to requests received through the dashboard once this staging date has passed.

The LGA drafted a response saying that this deadline was unachievable for LGPS administering authorities as it is expected that the McCloud remedy regulations will come into force from October 2023. This means that administering authorities will then start recalculating benefits back to 1st April 2014, paying arrears and interest and potentially re-visiting transfer values.

We will state that a connection deadline of April 2024 is not achievable and suggest it be moved to April 2025.

Administering authorities will need to provide data from Annual Benefits Statements (ABS) or from a recent calculation in response to a request from a member once their identity has been verified. It is not yet clear whether ABS's for active and deferred members, who are in scope of the McCloud remedy will need to include any figures associated with that remedy. Until the position is clear, it will not be possible for suppliers to start work on software developments in this area for McCloud or pensions dashboards.

The March 2022 Local Government Technical Group meeting notes confirmed that DWP planned to publish their response on the draft Pensions Dashboards Regulations in June 2022. The aim is to have the regulations approved in the Autumn of 2022.

10. Annual allowance changes

The Government has changed the annual allowance rules via Section 9 of the Finance Act 2022 and the Registered Pension Schemes (Miscellaneous Amendments) Regulations 2022.

The changes apply in certain situations where annual allowance calculations for previous years are retrospectively amended.

The new regulations require employers to provide further information to administering authorities. This will apply where an employer becomes

aware that information they provided previously, for a Pension Input Period (PIP) falling within the 'relevant time', was insufficient to enable the authority to correctly calculate the annual allowance.

If the administering authority receives information from the employer for a PIP falling within the 'relevant time', it must recalculate the annual allowance. Administering authorities must also recalculate annual allowance amounts where there has been a change to the scheme rules.

After recalculating the annual allowance, if the member exceeds the annual allowance for the relevant tax year, the administering authority must send a pension savings statement to the member. An event report must also be sent to HMRC.

The new regulations have also changed the time limit for amending mandatory scheme pays elections. With effect from 6th April 2022, this has been extended by two years.

Please refer to Appendix 3 for more information.

11. **Sharia Law**

Several LGPS administering authorities have raised concerns about members opting out of the LGPS due to their religious beliefs. Some members do not believe that the LGPS is compliant with Sharia law. Employers are concerned that employees may make a discrimination claim because they do not offer a scheme that is Sharia compliant.

The SAB sought legal advice from Lydia Seymour (Outer temple Chambers) on the position for the LGPS. She has recently provided her advice in response to that request. In her view, the SAB is correct to consider this important and very complex issue. There is currently no provision that would allow an employer to offer an alternative scheme to a specific group. It may be possible to offer a defined contribution scheme, such as a Sharia-compliant scheme provided by NEST. Membership of that alternative scheme would have to be available to all employees who have opted out of the LGPS, not just those that have done so because of their religious beliefs.

It was noted that it is possible for interpretation of the Equalities Act to capture many different groups who are opposed to the investment principles adopted by an administering authority. The LGPS could be weakened if employers are forced to offer multiple schemes designed to cater to different religions and beliefs. That impact could be more significant for a smaller employer.

Member benefits in the LGPS are not determined by investment returns. This is accepted in the unfunded public service pension schemes and that they are considered Sharia compliant. LGPS investments do not determine the level of benefits a member receives, but those investments are

necessary to provide benefits, and the member may not agree with the way that money is invested.

The SAB will be asked to consider this question and whether they should seek further expert advice.

12. **PASA good practice guidance on defined benefit (DB) transfers**

The Pensions Administration Standards Association (PASA) has published Good Practice Guidance on DB transfers.

“The guidance is designed to support transfer processes which contribute to a better end-to-end member experience, ensure members and adviser communications are timely and helpful and to protect members from pension scams.

Please refer to Appendix 4 for more information.

13. **Data Subject Access Requests (DSARs)**

What is a DSAR?

Under Article 15 of the UK GDPR, an individual (data subject) is entitled to be informed that their personal data is being processed, have access to their personal data, be provided with a copy of their personal data and be given specific 'supplementary information' about their personal data.

A DSAR is the exercising of this right by or on behalf of a data subject. Any data subject, or their representative, can submit a DSAR to any data controller. The administering authority is a data controller, they as such will receive a DSAR. The current increase in these requests is related to transfers out of Pension Funds.

At the Technical Group meeting of 18th June 2021, the group agreed that the LGA should seek guidance / legal view on what administering authorities should be providing in their response to a DSAR request.

The LGA contacted Squire Patton Bogs to produce the following on behalf of LGPS administering authorities in England & Wales and Scotland:

- Background information - information tailored specifically for LGPS administering authorities which sets out the legal basis and any other considerations administering authorities should be aware of.
- A step-by-step procedure - standardised procedure based on the background information that administering authorities can easily follow upon receipt of a DSAR

- Template documents - standard communications covering all aspects of responding to a DSAR. It is intended that the correspondence should be used consistently by administering authorities

These documents are now live and fully accessible.

Please refer to Appendix 5 for more information.

14. **History of pension transfers and liberation guidance**

Related to DSAR, the Technical Group have requested a 'historical timeline' of pension scam information. This should cover what and when information should have been provided during the transfer out process (from around the outset of pensions liberation).

The historical timeline is intended to help administering authorities should they become embroiled in a legal challenge.

LGA have requested Eversheds to provide;

- timeline and effective dates of the legislation that covered transfers out since the outset of pensions liberation
- timeline and copies of the guidance and leaflets that should have accompanied statement of entitlements / statement of cash equivalent – including effective lead in times following on from legal cases
- timeline of guidance that should have been followed, such as TPR guidance etc
- significant legal / case law / TPO cases that impacted on transfers out and the subsequent changes to legislation and guidance as a result
- all the documents should meet the public sector accessibility requirements so that we are able to publish them on our website.

15. **Staff recruitment and retention survey**

The LGA recently issued an online survey regarding the recruitment and retention of pension staff within administering authorities. Feedback has been received reporting that many administering authorities are experiencing staffing difficulties.

The aim of the survey is to understand the extent of the issue. The responses received covers the administration of 57 administering authorities.

The survey report is attached as part of supporting background papers.

At the March 2022 Technical Group meeting Jeremy Hughes provided an update, on behalf of the DLUHC. There was an in-depth discussion around the general resourcing issues for administering authorities.

Difficulties in recruitment and retention features heavily across the board. Jeremy Hughes confirmed that DLUHC are open to all ideas that may help support administering authorities.

16. **The Pension Regulator Administrator Survey**

TPR are carrying out this online survey to better understand the day-to-day experiences of administrators and how they are adapting to the changing regulatory landscape (including preparing for the forthcoming pensions dashboards). It is viewed as an opportunity to tell TPR about the issues you face and to help them understand where, and how, you can best work together to drive up standards.

17. **PLSA Local Authority Conference 13-15 June 2022**

Cllr Phillips addressed the 2020/21 annual scheme report firstly by reminding everyone of the success in delivering the LGPS from home during the COVID pandemic.

Key statistics from the annual report:

- Assets £342bn (+24%)
- Net return on investment +21%
- Scheme maintained a positive cash-flow
- Membership grew by 1.1% - 6.23m members, including 1.8m pensioners
- Covid impacted life expectancy with a drop of 0.9 and 0.5 years

Cllr Philips (Scheme Advisory Board) Update:

- On levelling up, he thinks the LGPS need to meet that challenge and consider how, as the 8th largest scheme in the world, we use our weight when it comes to infrastructure
- On funding valuations, LGPS in a good place as at 31st March 2022 but there are real concerns about rising inflation and the national living wage implications for the scheme
- On Good Governance, his view is that it's vital to the reputation and integrity of the scheme. The department has allocated resource to progress guidance.
- He also acknowledged the very real resource challenges that funds are facing, commenting that our economy currently has more jobs than people.

The good health of the scheme from a Section 13 perspective was highlighted including the impact of increasing scheme maturity on cashflows and concerns that high inflation and increases in the cost of living may lead to member opt-outs.

The importance of strong communications about the value of the scheme and the role of TU/employee representatives in supporting that message.

Please refer to Appendix 6 for more information

New LGPS project - The LGPS - Today's challenges, Tomorrow's opportunities report

The purpose of the report was to identify risks and opportunities and address them proactively.

The project had been an interactive process incorporating the views of 60+ funds, and addressed 4 key themes, with both issues and recommendations.

Regulatory & operational environment

Issues identified were no single champion, oversight by many different bodies, unclear hierarchy of regulation, and localisation in the application of change leading to increased risk

LGPS employers

Issues identified were the proliferation of employers and that it is increasingly challenging for employers to adhere to requirements set by funds. Prospective employers don't always understand their responsibilities and their potential costs and risks before entry to the scheme

88% of respondents had seen employers want to leave for affordability reasons

Employers can at times fail to fully appreciate the value of the scheme to them as employers

LGPS scheme members

It was noted that the scheme is terribly complex for members and that we need to use all channels and all tools available to maximise member understanding and engagement

Operational sustainability

It was referred again to the difficult recruitment and retention environment and focused on a need for greater investment and innovation from system providers to improve efficiency and productivity.

Please refer to Appendix 7 for more information

What to expect when you're implementing: The McCloud judgement
LGA provided an overview of the scheme reforms giving rise to the McCloud judgement.

DLUHC are responsible for setting the LGPS regulations and we anticipate regulations will take effect from 2023 but with retrospective effect.

Discussion covered analysis of those impacted by McCloud and the anticipated increase in costs to the scheme. Following GAD's Section 13 Review, they are working with actuarial colleagues to ensure McCloud is treated consistently in 2022 England and Wales valuations.

Also discussed the cost cap mechanism: GAD expect less chance of a cost cap breach from the 2020 analysis, although numbers are still being worked on.

the challenges of implementing McCloud. Funds need to engage with employers to obtain historic data which is a challenge as data may not be available. There is a need for guidance to deal with cases where there are data gaps.

In addition to data challenges there are resource concerns given the volume of calculation work needed to apply the McCloud remedy retrospectively. Funds have made plans to automate and to secure additional resources, however these have been hampered by the labour market.

Impact on the current England and Wales valuations. The ongoing 2022 valuations can make a clearer estimate of the McCloud impacts.

The panel discussion related to member communications, and the need to reassure members and to manage expectations. Clear communications will be needed and the LGA plan to provide materials when regulations are available.

Driving the pensions dashboards for the LGPS

A background to the dashboard initiative was provided, explaining the interactions between the funds and central digital architecture. Also covered the ways in which members can access the system and how data is made available to them. The call to action was to visit moneyhub.com and use the products menu to see how an example dashboard might work.

Delivery update also covered. The programme is still using the same plan as set in October 2020 and keeping pace. Currently it is in develop and test phase, expecting to move to staged onboarding next year which will be a key learning phase before wider onboarding. Testing to the architecture was successfully completed and next year schemes will begin to connect.

Important next stages will include receipt of DWP Regulations and the Design Standards which MPS will be responsible for.

The Design Standards, which will be out for consultation in July, will set out how funds will connect and will be of real technical value. Emphasised

that this whole project is for consumer benefit and so consumer research and user testing are constantly part of the programme.

There is also work to consider any risks associated with dashboard, such as scams. Delegates were encouraged to register for the programme newsletter and check out the website.

LGPS funds face two key administration challenges – data improvement and connection to the dashboard.

Funds will need to procure an integrated service provider and be aware that detailed technical specifications will be needed. The complexity of data flows should not be underestimated, and neither should the challenge of data cleansing.

Benefits of the dashboard include free national engagement and publicity tool! Member queries should be a welcome opportunity to improve data quality.

18. SAB forward looking review

Six years on from the inception of SAB it was felt that the time was right to review the scope and role of the Board, the way in which it operates and its longer-term strategy.

The Board met on the 21st April 2022 to discuss these issues. The Board reached a consensus that it needed to be more proactive in its activities and more forward looking. Improvements in communication with scheme stakeholders was

19. Local Government Pensions Committee (LGPC) - Death Grant Entitlement

The Committee considered whether SAB should make a recommendation to DLUHC that would amend the scheme regulations to remove the age 75 barrier to entitlement to a survivor's death grant.

Other public service pension schemes have made such an amendment and the committee agreed that the LGPS should explore doing likewise.

20. PASA publishes fraud guidance on pre-employment vetting

The Pensions Administration Standards Association (PASA) published on 19 April 2022 fraud guidance on vetting new employees.

PASA has been made aware of cases of fraud undertaken or assisted by pension administration employees. In some cases, individuals deliberately gained employment with the intention of committing fraud. The guidance aims to counter this risk.

Please refer to Appendix 8 for more information

21. The Levelling Up and Regeneration Bill

The Levelling Up and Regeneration Bill has been introduced but does not include any specific provision requiring LGPS funds to publish plans to invest 5% of their portfolio in local projects.

It is assumed that DLUHC will use their regulations and guidance making powers under the Public Service Pensions Act 2013 to make the necessary regulations and guidance on levelling up. Further details will be given as part of the Departments public consultation in the Autumn.

22. Contributions banding increases

Technical Group March meeting discussed how increases to contributions could be applied to improve current situations.

The contribution bands in the regulations only increase by pensions increase and don't take into account pay increases over and above inflation. This results in individuals been placed into higher pay bands. Consideration needs to be given to remove the contribution bands from the regulations and for them to be placed in guidance. This would make it easier to change the contribution bands as they would not need legislation for this to happen.

23. Pension Teamwork priorities

The Pension Team sent the annual pensioner newsletter in April and are now focusing on the annual benefit statements and the Funds Triennial Valuation.

The Team are also currently working with employers so they will, in future be able to submit their payroll data via i-connect to the team. The on boarding process also includes an extensive data cleansing exercise.

Onboarding completed:

- ARK John Keats Academy
- Jewish Community Academy Trust
- Kingsmead School
- Wren Academy Enfield

Onboarding in final stages:

- Aylward Academy
- Enfield Learning Trust
- EPM Academies: AIM North London, One Degree, Edmonton County, Southgate School, Lea Valley.

Onboarding pending:

- Capel Manor College
- Oasis Community Learning

Future onboarding planned for late 2022:

- Hertfordshire Catering Limited
- The Pantry
- WGC

This automation will greatly improve data quality and reduce manual intervention.

A planned restructure of the pensions team is currently under discussion to reflect the increasing demands of delivering – McCloud project, Pensions Dashboard and increased levels of work alongside increased level of communication ambitions.

Team training update – three members of the team will be attending a 4-day residential course with the LGA in Eastbourne in September for an intensive course on all aspects of administration.

Two members of the team currently on maternity leave are due to return in September and October respectively, both in part time capacity.

24. Pension Team – Annual Key performance Indicator (KPI's) 2021/22

A number of performance indicators are presented below to ensure that service to members of the pension fund is effective.

Process	No. of cases commenced in year	No. of cases completed in year	No. cases outstanding at year end	% completed in year
Deaths – initial letter acknowledging death of members	215	136	214	63.26%
Retirements – letter notifying estimate retirement benefits	536	390	98	72.76%
Retirements – letter notifying actual retirement benefits	786	466	320	59.29%
Deferment – calculate and notify deferred benefits	826	625	201	79.52%
Transfers in/out – letter detailing transfer quote	926	562	35	60.69%
Transfers in/out – letter detailing transfer actual	388	210	178	54.12%
Refund – Process & pay a refund	110	98	12	89.09%
Divorce quote – letter detailing cash equivalent value and other benefits	32	26	6	81.25%
Divorce settlement – letter detailing implementation of pension sharing orders	4	2	2	50%
Joiners – notification of date of enrolment (+ iconnect) Manual 253 + Auto 1028 Total 1281	1281	1281	0	100.0%

Key Performance Indicators				
Process	KPI	Good Practice Requirement	%	
Deaths – letter notifying amount of dependants pension	136	2 Months	75.74%	
Retirements – letter notifying estimate of retirement benefits	390	2 Months	93.33%	
Retirements – letter notifying actual retirement benefits	466	2 Months	73.30%	
Transfers in/out - letter detailing transfer quote	562	2 Months	77.44%	
Transfers in/out – letter detailing transfer actual	210	2 Months	62.79%	
Refund – process and pay a refund	98	2 Months	98.97%	
Divorce quote - letter detailing cash equivalent value and other benefits	26	2 months	56%	
Divorce settlements – letter detailing implementation of pension sharing	2	3 Months	0%	
Joiners – notifications of date of enrolment Manual 253 + Auto 1028 Total 1281	1,281	2 Months	100.0%	
Deferment – calculate and notify deferred benefits	625	2 Months	75.67%	

Complaints Received

The pension administration team occasionally deal with members of the fund who dispute an aspect of their pension benefits. These cases are dealt with by the Internal Dispute Resolution Procedure (IDRP).

There has been only one IDRP case during 2021/22 which was resolved at stage only and no Ombudsman rulings were made against the Fund

25. Main Considerations

No main considerations arising from the report.

26. Safeguarding Implications

No Safeguarding implications arising from the report.

27. Public Health Implications

The Enfield Pension Fund indirectly contributes to the delivery of Public Health priorities in the Borough

28. Equalities Impact of the Proposal

The Enfield Pension Fund is committed to fairness for all to apply

throughout all work and decisions made. The Administration Authority serves all members of the Enfield Pension Fund and employees who are eligible to join the scheme fairly, tackling inequality through the provision of excellent services for all.

29. Environmental and Climate Change Considerations

There are no environmental and climate change considerations arising from the report

30. Risks

The Pension Team risk register is attached to this report

31. Financial Implications

There are no financial implication to report

32. Legal Implications

The amended Admissions Policy drafted by the Council's actuaries Aon adhere to the LGPS Regulations 2013.

33. Workforce Implications

There are no workforce implications to report

34. Property Implications

There are no property implications arising from this report

35. Other Implications – None

36. Options Considered – none

37. Conclusions – None

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Appendices

Appendix No 1

Special Severance Payments

https://lqpslibrary.org/assets/cons/lqpsew/20210702_SG.pdf

Appendix 2

New legal requirement to 'nudge' AVC members to guidance

<https://tpr-prdsitecore-uksouth-cd.azurewebsites.net/en/document-library/scheme-management-detailed-guidance/communications-and-reporting-detailed-guidance/6-communicating-and-reporting>

Appendix 3

Annual allowance changes

<https://www.legislation.gov.uk/ukpga/2022/3/contents/enacted>

<https://www.legislation.gov.uk/uksi/2022/392/contents/made>

Appendix 4

PASA good practice guidance on defined benefit (DB) transfers

<https://www.pasa-uk.com/press-release-pasa-releases-good-practice-guidance-on-db-transfers/>

Appendix 5

Data Subject Access Requests (DSARs)

<https://www.lgpsregs.org/resources/guidesetc.php>

Appendix 6

Scheme annual report

<https://www.lgpsboard.org/index.php/schemedata/scheme-annual-report>

Appendix 7

The LGPS - Today's challenges, Tomorrow's opportunities report

<https://www.plsa.co.uk/Policy-and-Research/Document-library/The-Local-Government-Pension-Scheme-todays-challenges-tomorrows-opportunities>

<https://www.plsa.co.uk/Portals/0/Documents/Policy-Documents/2022/LGPS-Report-2022-Executive-Summary.pdf>

Appendix 8

PASA publishes fraud guidance on pre-employment vetting

<https://www.pasa-uk.com/press-release-pasa-releases-fraud-guidance-on-pre-employment-checks-for-administrators/>

Background Papers

- Prudential Letter – May 2022
- Recruitment and retention survey results
- Pensioners Newsletter 2022