

Current Technical Issues

HMT

HMT consultation on public sector exit payments

On 8 August 2022, HM Treasury (HMT) launched a [consultation on public sector exit payments](#). The Government is proposing to introduce:

- an expanded approval process for employee exits and special severance payments
- additional reporting requirements.

The guidance is intended to apply to all bodies that are classified as ‘Central Government’. This **does not** include local authorities or bodies under devolved administrations. The guidance **will apply** to academies.

The new approvals requirement would apply to decisions made by employers to agree to an exit where the total payment to be made would be more than £95,000. This includes relevant statutory, contractual or discretionary payments. This would include any strain cost where an LGPS member aged over 55 leaves due to redundancy or efficiency. A further approval will be needed if special severance payments – payments in excess of contractual obligations – are to be offered.

Employers will need to report any exit to HMT if the total payments made in relation to it exceed £95,000.

You can find more information about the proposals in the [draft HMT guidance on public sector exits](#) draft HMT guidance on public sector exits.

The consultation closes on 17 October 2022.

Treasury Direction - McCloud On 14 December 2022, HM Treasury (HMT) made the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022. They come into force on 19 December 2022 and apply to England, Northern Ireland, Scotland and Wales.

The Directions set out how certain powers in the Public Service Pensions and Judicial Offices Act 2022 must be exercised. The Act gives relevant government departments powers to rectify McCloud discrimination.

For the LGPS, the Directions apply to the following powers in the Act:

- Section 82: an administering authority’s power to pay compensation
- Section 83: the power to make regulations compensating members by paying additional LGPS benefits 6
- Section 84(1)(a): the power to make regulations setting out how interest should be calculated and paid on amounts due to the McCloud remedy, and

- Section 84(1)(B): the power to make regulations setting out the process to follow for paying amounts due to the McCloud remedy.

The making of the Directions now allows relevant departments to start consulting on regulations exercising these powers.

We have added the Directions to the directions and guidance folder on the:

- [Related legislation](#) page of www.lgpsregs.org

HMRC

Newsletter 143

HMRC published [Newsletter 143](#) on 30 September 2022.
[Consultation on tax rules for the McCloud remedy](#)

On 24 November 2022, HMRC launched a [consultation on how pension tax will apply to members protected by the McCloud remedy](#). HMRC is seeking views on draft legislation: The Public Services Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023. The legislation is planned to take effect from 6 April 2023. Some provisions will have retrospective effect.

The remedy that will apply in the LGPS is very different from the remedy that will apply in the unfunded schemes. As the draft legislation will cover all public service pension schemes, not all provisions are relevant to the LGPS. The draft regulations in Part 2 that will apply to the LGPS are:

- 14: how any underpin increase is treated for annual allowance purposes
- 17 and 23: whether any additional pension commencement lump sum paid after the normal deadline is an authorised payment
- 18,19 and 24: how an underpin increase affects a past trivial commutation payment and whether any additional amount due is an authorised payment
- 20, 21 and 25: serious ill health lump sums
- 22: whether arrears of pension payments in respect of a deceased Scheme member are authorised payments
- 26: whether a pension remains authorised where it is reduced due to a retrospective lifetime allowance debit
- 27 and 28: whether overpaid pensions and lump sums which are not recovered are authorised payments
- 30: whether additional amounts of death grants paid after the normal twoyear time limit are taxable payments
- 37 and 38: valuing benefits for individual protection 2016

- 40: the impact of an underpin increase on fixed protection 2016.

Some of these provisions will have no effect or limited effect on LGPS members due to the Scheme rules and the design of the remedy. For example, it is not possible to pay a serious ill health lump sum to a member in scope of remedy. We will outline our views on whether the draft regulations will be effective for LGPS members in our response to the consultation. The consultation documents also include an explanatory memorandum and guidance for administrators on the draft regulations.

We will respond to the consultation and share our response before the consultation closes on 6 January 2023. You can find links to the consultation on the:

- Non-scheme consultations page of www.lgpsregs.gov.uk.

Action for administering authorities Read the consultation documents and submit your consultation response by 6 January 2023

Public service pensions remedy newsletter

On 25 November 2022, HMRC published a [Public service pensions remedy newsletter](#). The newsletter summarises the draft regulations and guidance that they are currently consulting on (see previous article) and confirms that HMRC is not able to respond to member queries related to the remedy.

TPO

TPO publishes corporate plan

[The Pensions Ombudsman's \(TPO\) corporate plan for 2022 to 2025](#) has been published. The corporate plan outlines TPO's key performance indicators, strategic goals and priorities for the period, along with the actions required to deliver those priorities.

New Pensions Ombudsman On 31 August 2022, [Dominic Harris was confirmed](#) as the new Pensions Ombudsman (TPO). See [bulletin 227](#) for more information.

He will start his appointment from 16 January 2023. The current Pensions Ombudsman, Anthony Arter, will remain in post until 15 January 2023.

News – September 2022

On 6 September 2022, [TPO published its September 2022 news](#).

It contains information about September's events, TPO resources and the latest determinations.

Scheme Advisory Board (SAB)

SAB responds to HM Treasury's consultation on exit payments

The SAB recently responded to HM Treasury's consultation on public sector exit payments.

Between 8 August 2022 and 17 October 2022, HM Treasury consulted on proposals introducing new controls for high exit payments. These will apply to all bodies classified as 'central government'. We covered the consultation in [Bulletin 228](#).

You can access the consultation documents and the SAB response on the non-scheme consultations page of www.lgpsregs.org.

Pension Dashboards

Draft guidance on deferring staging date published On 17 October 2022, the Department for Work and Pensions (DWP) published [draft guidance on applying to defer the staging deadline](#). DWP also published a [template application form](#).

The draft Pensions Dashboards Regulations 2022 propose allowing trustees / managers of a pension scheme to apply to DWP to defer their staging deadline. They set out the time limits in which to apply and the circumstances where DWP may accept applications. DWP may only agree to defer the staging deadline once for each scheme and for a period of up to 12 months.

DWP has produced the draft guidance to aid understanding of the application process. This includes:

- what DWP will consider when reviewing applications
- what evidence should be submitted to support an application
- how to apply, including a recommendation to use the template application form
- how DWP will let schemes know whether they have accepted the application and how schemes can appeal.

DWP will finalise the draft guidance once the dashboard regulations come into force.

Draft dashboard regulations laid for approval

On 17 October 2022, DWP laid a draft of [The Pensions Dashboard Regulations 2022](#) before each House of Parliament.

DWP can only make the regulations if each House approves the draft by a resolution. The House of Lords will consider the regulations on 15 November 2022. As yet, no date has been set for this to happen in the House of Commons.

DWP consulted on draft dashboard regulations between 31 January 2022 and 13 March 2022. They responded on 15 July 2022, which we covered in [Bulletin 227](#). The draft regulations laid before each House have been amended to reflect the consultation response. They have also been amended to reflect the response to the further consultation (see next article).

You can access the consultation documents on:

- the non-scheme consultations page of www.lgpsregs.org

DWP responds to further consultation on dashboards

On 17 October 2022, DWP responded to the further consultation on dashboards. This ran from 28 June to 19 July 2022, see [Bulletin 226](#) for more information.

The response confirms that the DWP will:

- give pension schemes six months' notice of the point at which pensions dashboards will be available to the public, the 'Dashboard Available Point'. This is an increase to the 90 days proposed in the consultation
- go ahead with the second proposal allowing the Money and Pensions Service (MaPS) and the Pensions Regulator (TPR) to share information about dashboards.

You can access the consultation documents on:

- the non-scheme consultations page of www.lgpsregs.org

Approach to governance of the standards

PDP recently published its [approach to the governance of the standards](#). This sets out how PDP developed the standards, outlines their scope and describes how they will go about setting and managing any future changes.

In [Bulletin 231](#), we let you know the Pensions Dashboards Programme (P D P) had published revised standards for connecting to the dashboards ecosystem.

PDP Newsletter

On 15 December 2022, [PDP published its December 2022 newsletter](#).

The newsletter contains articles on the design standards consultation, cleansing data in readiness for dashboards, a new updated glossary, access to recordings and Q & As for the standards webinars and a blog looking back at 2022.

TPR

TPR warns employers about auto-enrolment duties

On 26 September 2022, the Pensions Regulator (TPR) published [a press release](#) warning employers to ensure they are complying with their automatic enrolment duties.

The warning follows a series of in-depth compliance inspections with more than 20 large employers earlier this year. The employers are from the transport, hospitality, finance and retail sectors. TPR found several common errors in respect of calculating pension contributions and communications to staff.

Enforcement and prosecution policies updated

On 25 October 2022, the Pensions Regulator (TPR) published the following:

- [revised enforcement policy](#)
- [updated prosecution policy](#)
- [new enforcement strategy](#).

These aim to give clarity on what those who are subject to enforcement action can expect from TPR.

The enforcement policy sets out TPR's approach to investigating cases and any subsequent enforcement action. It is web-based and divided into standalone chapters, each with links to other relevant documents. The policy also consolidates previous policies in respect of defined benefit, defined contribution and public service pension schemes.

The prosecution policy explains how TPR will approach prosecuting workplace pension criminal offences. The policy has been brought up to date to reflect the new criminal powers in the Pensions Schemes Act 2021 and other developments. The enforcement strategy sets out the overarching aims of TPR's enforcement work (excluding automatic enrolment). It also provides an insight into the framework TPR applies when selecting cases for enforcement action.

TPR ran a consultation on the revised enforcement and prosecution policies between 4 May 2022 and 24 June 2022 and responded on 25 October 2022. You can access the consultation documents on [the consultations page of TPR's website](#).

For more information, see the [press release from TPR](#). Erica Carroll, TPR's Director of Enforcement, also published [a blog setting out the reasons for the changes](#).

TPR consultation on dashboard enforcement

On 24 November 2022, the Pensions Regulator (TPR) launched a consultation on its draft dashboards compliance and enforcement policy.

TPR is responsible for ensuring that occupational pension schemes comply with their dashboard duties. The draft policy sets out how it intends to do so. The policy covers:

- the key risk areas it will focus on
- what it expects schemes to do when complying with their dashboard duties
- how it will monitor compliance
- how it will approach non-compliance.

The policy reiterates the powers TPR has to deal with non-compliance. This includes compliance notices and penalty notices. These can also be issued to third parties, such as employers, administrators and Integrated Service Providers (ISPs).

The policy also includes illustrative scenarios, setting out how it may approach particular examples of non-compliance.

The consultation closes on 24 February 2023. You can find links to the consultation on the:

- Non-scheme consultations page of www.lgpsregs.org

Action for administering authorities Submit a response to the consultation before 24 February 2023 if you have comments to make about the proposed compliance and enforcement policy.

The Pensions Dashboards Regulations 2022

On 21 November 2022, the Department for Work and Pensions made The Pensions Dashboards Regulations 2022 – the Regulations. They come into force on 12 December 2022.

The Regulations set out requirements for relevant occupational pension schemes to connect to pensions dashboards, and what organisations must do to provide a qualifying pensions dashboard service.

The regulations apply to England, Scotland and Wales. Different Pensions Dashboards Regulations for Northern Ireland have been made.

To help administering authorities implement pensions dashboards, we intend to publish an LGPS specific guide to connection early in 2023.

Pensions Dashboards Programme (PDP) publishes updated standards

On 16 November 2022, the [PDP published its revised standards](#) for connecting to the dashboards ecosystem. They cover the technical and operational detail that underpins dashboards legislation. The revised standards incorporate feedback from the consultation published in July 2022 – see bulletin 228 for more information.

Although the revised standards are pending final approval by the Secretary of State for Work and Pensions, they have been published to give schemes advance notice of the duties that they will need to comply with.

PDP also confirmed the process for updating the standards going forward, including the principles for decision-making and the notice period for industry.

A consultation on the draft design standards for qualifying pensions dashboards will take place in the winter.

Action for administering authorities Administering authorities should consider how they will comply with the standards. We recommend discussing the standards with their software provider or third party administrator, for those funds administered externally.

TPR

Regulators issue scam warning to pension schemes and savers

The Pensions Regulator (TPR) joined forces with the Financial Conduct Authority and the Money and Pensions Service to issue a [scam warning to pension schemes and savers](#) on 11 November 2022. The statement warns of an increased risk from scammers because of the current economic uncertainty.

The warning urges savers to:

- contact [MoneyHelper](#) for free, impartial advice before making any hasty decisions
- check that they are dealing with a legitimate firm by visiting the [ScamSmart website](#)
- know [how to spot pension scams](#) and avoid them