

### Regulatory Update

[LGPC Bulletin 243 October 2023 \(lgpslibrary.org\)](#) , [LGPC Bulletin 244 November 2023 \(lgpslibrary.org\)](#) , [LGPC Bulletin 245 \(lgpslibrary.org\)](#) have now been published, please take a few minutes to read the bulletins.

#### LGPS England & Wales

##### **LGPS statistics for 2022/23 published**

On 25 October 2023, the Department for Levelling up and Communities (DLUHC) published the [LGPS statistics for England and Wales: 2022 to 2023](#).

Highlights include:

- total expenditure was £15.2 billion, an increase of 5.1 per cent on 2021/22
- total income was £17.3 billion, an increase of 8.5 per cent on 2021/22
- employers' contributions amounted to £8.4 billion, an increase of 7.8 per cent on 2021/22
- employee contributions were £2.8 billion, an increase of 9.5 per cent on 2021/22
- the market value of the LGPS funds at the end of March 2023 was £357.2 billion, a decrease of 1.9 per cent
- there were 6.2 million scheme members on 31 March 2023: 2 million active members, 1.9 million pensioners and 2.3 million deferred members
- there were 87,129 retirements, a decrease of 8 per cent compared with 2021/22.

##### **SCAPE rate change – transitional arrangements table updated**

On 14 November 2023, Jayne Wiberg emailed administering authorities confirming we have published a revised version of the transitional arrangements table. The table sets out how to implement the new GAD factors following the SCAPE rate change in March 2023.

The revisions clarify non-club transfers in following queries raised by administering authorities. If an authority received the transfer-in election before 30 March 2023, they should use the old factors, even if the relevant date is after 29 March 2023.

The only exception is if there was a guarantee period from the sending scheme and the member elected after that period. In this case, the transfer process will start again. The member would need to ask for a new guaranteed transfer value from the sending scheme. If they get it, the administering authority would give a new quote using the new factors.

You can access the updated transitional arrangements table on the [actuarial guidance](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

**Action for administering authorities - Review and implement the latest transitional arrangements table.**

### **SAB commissions report on the LGPS and Sharia law**

In 2022, the Board received [legal advice from Lydia Seymour](#) (Counsel) on members opting out of the LGPS on the basis of their (principally Islamic) religious belief, and whether this might constitute unlawful discrimination. In order to give a definitive opinion, Counsel advised that she needed to understand better the basis of those beliefs and the extent to which they would be broadly shared across the Muslim community.

The Board commissioned [Mufti Faraz Adam](#) of Amanah Associates, an Islamic finance expert, to produce a report on Sharia law and the LGPS. The aim being to address any possible legal risk for scheme employers and to ensure the scheme is as inclusive as possible. The Board secretariat recently received the report and thanks Mufti Faraz Adam for providing a comprehensive and considered opinion.

The Board will now go back to Counsel for a follow-up opinion and will consider this advice alongside the full report, which is to be published in the new year.

### **September 2023 CPI rate announced**

On 18 October 2023, the Office for National Statistics announced the [Consumer Prices Index \(CPI\) rate of inflation for September 2023 as 6.7 per cent](#).

Government policy in recent years has been to base increases under the Pensions (Increase) Act 1971 and revaluation of pension accounts under section 9 of the Public Service Pensions Act 2013 on the rate of CPI in September of the previous year. We await confirmation from Government that the revaluation and pensions increase that will apply to LGPS active pension accounts, deferred pensions and pensions in payment in April 2024 will be 6.7 per cent.

### **McCloud update**

#### **Public service pensions remedy newsletter**

HMRC has published [the remedy newsletter – October 2023](#).

The newsletter introduces the [‘Calculate your public service pension adjustment service’](#). This is for members who need to correct their tax position because of the McCloud remedy. The service will help members to:

- work out any repayments they are due for a lifetime allowance or annual allowance charge they have previously paid
- work out new, reduced or extra lifetime allowance or annual allowance charges that they may have to pay
- submit information for HMRC to review.

The newsletter also announces the launch of:

- [interactive guidance for members](#) to check if they are affected by the McCloud remedy
- [full guidance on the remedy for members](#)
- [full guidance on the remedy for administrators](#).

The guidance for administrators covers the pension tax rules they need to follow when implementing the McCloud remedy.

### Compensation cases

The Department for Levelling Up, Housing and Communities (DLUHC) would like to know if administering authorities receive any applications for McCloud compensation.

For example, an authority might receive an application from a member who overpaid an annual allowance charge that HMRC will not refund.

**Action for administering authorities - Send depersonalised details of each case to [lgpensions@levellingup.gov.uk](mailto:lgpensions@levellingup.gov.uk).**

### Dedicated areas of member websites

We have created new areas in the member websites dedicated to the McCloud remedy for England & Wales and Scotland.

The new pages include:

- a short video
- frequently asked questions
- an interactive 'Am I affected?' tool
- examples of how members might be affected
- detailed information about how the remedy will affect different types of members.

Please publicise the new McCloud pages to your members and employers:

- [LGPS \(England and Wales\) McCloud for members](#)

### Initial prioritisation policy

On 12 October 2023, on behalf of DLUHC, we emailed administering authorities in England and Wales. The email included a link to DLUHC's initial policy on how to prioritise cases affected by the McCloud remedy.

The policies are not yet final. They will be discussed with the McCloud statutory guidance working group. DLUHC will also consult on the policies before a final version is issued early next year.

You can view each policy on the:

- [Administrator guides and documents page \(England and Wales\)](#)

### **Interfund transfers and the underpin**

Certain transfers for members with underpin protection are on hold until the actuarial guidance for transfers is updated for the McCloud remedy. DLUHC confirm:

- administering authorities can continue paying interfund transfers for members with underpin protection using the methodology in the current actuarial guidance
- authorities will not need to review these payments when the guidance is updated.

The sending authority must make sure they provide the receiving authority with the information they need to perform accurate underpin calculations. The sending authority should have:

- loaded any hours changes and service breaks for the remedy period,
- validated that information, and
- if the member is over age 65, supplied the provisional underpin amount, provisional assumed benefits and the underpin date.

It should not be necessary for the receiving authority to take any additional steps to verify the information they receive. On 24 October 2023, Rachel Abbey emailed administering authorities in England and Wales to tell them about this approach.

You can find the actuarial guidance on the:

- [Actuarial guidance page \(England and Wales\)](#)

**Action for administering authorities - Apply the approach set out by DLUHC for interfund transfers.**

### **McCloud survey**

On 20 October 2023 Jayne Wiberg, on behalf of the National LGPS Technical Group, emailed administering authorities with a McCloud survey. The survey closes on 23 November 2023.

The survey gathers information about administering authorities progress in implementing the McCloud remedy.

All results are published anonymously and shared with the relevant Scheme Advisory Boards and the Pensions Regulator. You can see results of previous surveys on the:

- [Technical group page \(England and Wales\)](#)

We strongly urge authorities to complete the survey so the Technical Group has a full picture of the implementation progress across England & Wales, Scotland and Northern Ireland.

If you have not received the survey and believe you should have done so, please contact [jayne.wiberg@local.gov.uk](mailto:jayne.wiberg@local.gov.uk).

**Action for administering authorities - Complete the survey by 23 November 2023.**

### **Teachers' excess service – TPS communications in England and Wales**

The Teachers' Pension Scheme (TPS) has issued further communications to employers in England and Wales about the McCloud remedy for teachers with excess service. The [November 2023 TPS employer bulletin](#) includes a link to the updated [Transitional Protection and members with LGPS linked excess service](#) page of their website.

You can read more about how the McCloud remedy will operate for this group in [Bulletin 229](#).

### **Factsheet for members**

On 6 November 2023, Rachel Abbey emailed administering authorities letting them know we have published a McCloud factsheet for members.

About the factsheet:

- it is designed to be issued as a 'hard copy' so authorities can give it to members at in-person member events or post it to those members who have opted out of digital communications
- if authorities want to make a pdf version available online, they will need to take steps to make sure it meets the [public sector website accessibility standards](#)
- it is published in Word so authorities can add their own contact details or other 'local' information
- we have published a 4-page and a 5-page version so authorities can choose the version that best suits their needs. This may depend on how much 'local' information that they want to add about events they have arranged or resources they have produced. 10 You can find the factsheets on the:
  - [Administrator guides and documents \(England and Wales\) page](#)
  - [Administrator guides and documents \(Scotland\) page](#).

You can use the 'filter' tool on the right hand side of the page to find all documents related to McCloud or any other subject. We produced the factsheet with the Communications Working Group and thank them for their hard work.

**Action for administering authorities** - Consider using the McCloud factsheet with your McCloud remedy communications.

### HMRC

Annual and lifetime allowance event report data 2022/23

On 20 October 2022, we forwarded an email from HM Revenue and Customs (HMRC) to all administering authorities.

The email confirms that HMRC will accept the annual allowance event report data for 2022/23 on an excel spreadsheet, rather than through the event report. You must submit this data by 31 January 2024.

HMRC has not yet updated the event report to include lifetime allowance protections that members applied for online. You can also submit these details to HMRC on a password-protected spreadsheet. You must submit this by 31 January 2024.

Further information about providing the data was included in the email.

If you choose to supply information to HMRC in this way, this is at your own risk.

**Action for administering authorities** - Review the email and follow the instructions when submitting the annual and lifetime allowance event report data for 2022/23.

Lifetime allowance guidance newsletter – December 2023

HMRC has published the [Lifetime allowance guidance newsletter – December 2023](#).

The Government is legislating through the [Finance Bill 2023/24](#) to fully abolish the lifetime allowance from 6 April 2024 and put in place new rules to determine the tax treatment of pension lump sums.

The newsletter gives information to support pension schemes to understand the changes.

It covers:

- the changes to certain lump sums
- the impact on lifetime allowance protections
- changes to reporting and disclosure
- the transitional arrangements.

HMRC wants to help pension schemes get ready for the changes and is keen to hear from them. The newsletter invites schemes to share their views on what topics they would like to see covered in future communications and whether they would find it useful to have more working groups to discuss the detail.

We are working with Aon to produce guidance for administering authorities on the changes. This will include a template declaration form.

### HMT

#### HMT confirms LTA abolition next April

HM Treasury (HMT) announced in the [Autumn Statement](#) on 22 November 2023 that it will legislate in the Finance Bill 2023 to fully abolish the lifetime allowance (LTA) from 6 April 2024.

On the same day, it also published a [policy paper](#) explaining:

- how lump sums and lump sum death benefits will be taxed without the LTA
- what will happen to people with LTA protections, lump sum protections or LTA enhancement factors
- the function of benefit crystallisation events
- the tax treatment of transfers to qualifying recognised overseas pension schemes
- the transitional arrangements
- the reporting requirements. On 29 November 2023, HMT published the [draft Finance Bill 2023](#).

### TPO

#### Court of Appeal rule TPO is not a competent court

The Court of Appeal has ruled in the case of [The Pensions Ombudsman v CMG Pension Trustees Limited & Anor](#) the Pensions Ombudsman (TPO) is not a 'competent court' for the purposes of enforcing a dispute regarding a monetary obligation under section 91(6) of the Pensions Act 1995.

This could affect how overpayments are recouped and monetary obligations due to misconduct are recovered from pension benefits when there is a disagreement over the amount. A TPO decision that allows recoupment / recovery may not be enough for enforcement; an order from a county court or another competent court may be needed.

TPO is currently reviewing its position and will [provide an update shortly](#) .

#### Response to Court of Appeal ruling

TPO has [expressed its disappointment about the recent Court of Appeal ruling](#) that it is not a competent court for enforcing a dispute about a monetary obligation under section 91(6) of the Pensions Act 1995. You can read more about the case in [Bulletin 244](#).

The ruling means that a TPO decision to allow recoupment / recovery from a pension is not enough to enforce it. The scheme also needs an order from a County Court.

The Department for Work and Pensions is supporting legislative changes to formally empower TPO to bring these disputes to an end without needing a County Court Order.

In the meantime, TPO has been working with stakeholders across the sector to review the management of such disputes to minimise the additional time and cost that has been added to the process. It has also published [a recovery in overpayment cases factsheet](#) to provide guidance to help schemes manage these disputes.

### Legislation

#### Useful links

[LGA Pension page](#)

[LGPS members' website](#)

[LGPS Advisory Board website](#)

[LGPS Regulations and Guidance website](#)

[LGPS Discretions](#) - lists all the potential discretions available within the LGPS

[The Timeline Regulations for Final Salary Schemes](#)

[The Timeline Regulations for the current scheme](#)