Current Issues

1) SCAPE discount rate – impact on actuarial guidance – update

MHCLG has recently issued revised late retirement guidance. The new guidance and factors are effective from 1 September 2019. The new methodology removes the 'cliff edge' effect which reduced the value of LGPS benefits held by members who were over their Normal Pension Age (NPA) when the factors last changed in January 2017.

2) Survivor guide published

LGPC have recently published a technical guide covering survivor benefits in the LGPS. The guide sets out the LGPC Secretariat's understanding of the membership that is used to calculate survivor benefits. The guide reflects the changes in survivor benefits for civil partners and the spouses of same-sex marriages, brought about by the LGPS (Miscellaneous Amendment) Regulations 2018.

MHCLG plans to introduce statutory guidance for administering authorities, in respect of past trivial commutation and transfer payments that are affected by the change in survivor benefits for civil partners and same sex spouses.

3) Good governance project - update

Following on from the presentation of the Good Governance report to SAB on 8 July 2019, the Board agreed to constitute two working groups to take forward the proposals included in the report (Phase II).

The first working group (Compliance and Improvement Workstream) were asked to focus on specifying clearly the outcomes and standards that the SAB wishes to see achieved by funds under the proposed approach, and how those outcomes should be evidenced.

The second working group (Compliance and Improvement Workstream) was asked to focus on establishing the compliance regime that will be required to independently assess funds against this framework.

The findings of both working groups have been reported back to SAB last November and includes detailed implementation proposals and a list of changes required to guidance to implement this framework.

The Working Group's recommended that SAB and MHCLG accept the recommendations of the working group and initiate phase III of the project.

At their meeting of 6 November 2019, SAB agreed that phase III of the project, including draft statutory guidance on governance compliance statements and establishing a set of key performance indicators should now be developed. Final proposals for phase III of the project will be considered by SAB when it next meets on the 3 February 2020.

4) Consultation: Exit payments cap – update

As you are aware, HM Treasury (HMT) had launched a consultation called 'Restricting exit payments in the public sector: consultation on implementation of the regulations'. The consultation closed on 3 July 2019.

HMT received approximately 600 responses, and it is likely they will publish their response in the autumn of 2019. We understand that HMT are to introduce the cap no sooner than 1 April 2020.

5) Consultation on changes to TPO – Government response published

On 19 December 2018 the government published a consultation seeking views on proposals for a new function at the Pensions Ombudsman (TPO) for the earlier resolution of disputes prior to a determination; allowing employers to make complaints or refer disputes to TPO on behalf of themselves; and associated signposting provisions.

On 8 August 2019 the government published its response to the consultation. On the whole, responders were supportive of the government's proposals. Going forward, the government will:

- collaborate with HMT and the FCA to ensure the services work to support the best interests of parties that will use those services, and
- bring forward legislation to provide a framework for the proposals.

Any amendments to signposting requirements will need to be set out in secondary legislation. If needed, draft regulations will follow on from the necessary primary legislation.

6) Tailored review of TPO – outcome published

In November 2018 DWP led a tailored review (last review 2014) of The Pensions Ombudsman (TPO) to ensure that the body remains fit for purpose, well governed 4 and properly accountable for what it does. The government published the outcome of this review on 27 August 2019. Findings indicated that:

- TPO is a well-respected and effective organisation.
- there was strong support from all consulted stakeholders for the quality, clarity and impartiality of its determinations on pension disputes.
- there was improvement to case clearance times, whilst embracing an ambitious internal change agenda.

Areas identified for improvement include:

- developing the governance and performance framework for the organisation to reflect the increasing size, complexity and maturity of its work.
- ensuring that both DWP and TPO take a more robust approach to scoping and tracking efficiencies. This is expected to yield from the investment TPO has received in its digital infrastructure and the potential to more radically streamline case handling.

- building on the outward facing engagement to position TPO more strategically, working with other relevant organisations to enhance the impact on raising standards more broadly in pensions administration.

The next tailored review will take place in around five years' time and should consider the progress made against the recommendations of this review.

7) LGPS engagement report published

On 19 September, the Pensions Regulator (TPR) published a report on the findings from its engagement with ten local government funds. The engagement took place between October 2018 and July 2019.

The report summarises the key findings against the Regulator's Code of Practice 14 both in terms of exceeding and falling short of required standards. The Scheme Advisory Board (England and Wales) will discuss the report in detail at their meeting.

8) SF3 data published

On 16 October 2019, MHCLG published Local government pension scheme funds for England and Wales: 2018 to 2019 (SF3) statistics. Highlights include: 3

- Total LGPS expenditure in 2018-19 was £12.7 billion. Removing the effect of mergers and large transfers in 2017-18 there was a like-for-like increase of £0.7 billion or 5.7% on 2017-18.

- Total LGPS income in 2018-19 was £15.1 billion. Removing the effect of mergers and large transfers in 2017-18 and 2018-19, there was a like-for-like decrease of £2.3 billion or 13.2% on 2017-18. This is mainly due to an increase in employers' contributions in 2017-18.

- Employers' contributions to LGPS in 2018-19 amounted to £7.1 billion, down 24.7% on 2017-18, and employees' contributions to the scheme were £2.2 billion. The decrease in employers' contributions is largely due to some large upfront pension contribution payments made in 2017-18 following the triennial valuation.

- The market value of the LGPS funds at the end of March 2019 was £287.2 billion, an increase of £16.3 billion or 6.0%.

- The LGPS encompassed 5.9 million people at the end of March 2019. Of this number, 2.0 million are employees who are still contributing to the scheme, 1.7 million are pensioners and 2.2 million are former employees who are entitled to a pension at some time in the future.

- There were 83,508 retirements from the LGPS in 2018-19, an increase of 7,554 or 9.9% compared with 2017-18.

9) GAD request for valuation data

As part of the cost management process GAD have requested valuation data as at 31 March 2019. This was submitted by Hounslow before the November deadline.

10) TPR initiative to improve data quality

On 2 October 2019, the Pensions Regulator (TPR) announced a crackdown on poor record keeping. TPR is in the process of contacting 400 schemes that it believes have not reviewed their data in the past three years. TPR will ask those schemes to conduct a data review within six months. We understand that some LGPS administering authorities are included in that group and that TPR planned to contact those affected by 25 October. TPR will contact a further 1,200 schemes to remind them to carry out data reviews of common and scheme-specific data every year.

11) Possible McCloud remedy - employer communications

When the Government reformed public service pension schemes in 2014 and 2015 they introduced protections for older scheme members. The Court of Appeal ruled that younger members of the Judges and Firefighters Pension schemes were discriminated against because the protections did not apply to them. The Government has confirmed that there will be changes to all public sector schemes to remove this age discrimination.

The Government and the SAB are having high level discussions about what this means for the LGPS. The SAB is confident that the eventual outcome will provide younger members in scope with protection that is equal to the protection provided to older members.

The protection compares the benefits payable under the current rules with the benefits that would have been paid if the Scheme had not changed in 2014 and pays the higher. This protection **will apply automatically** – LGPS members who meet the qualifying criteria do not need to take any action.

It is important that members are made aware that many of them will not see an increase to their pension benefits. For others any increase is likely to be small because of low salary growth since the new schemes were introduced.

The SAB will continue to work with Government to ensure **that the necessary changes to the LGPS are fully implemented and that all members automatically receive the protection they are due.**

Changes to the Scheme will be backdated to April 2014 and will apply to qualifying members who left the LGPS after that date. Implementing and communicating the changes will be extremely challenging. The SAB have set up an implementation group to assist LGPS administering authorities and employers with this challenge.

No decisions have yet been made on the form that any remedy will take, when it will be implemented and who will be in scope. It is **possible** that the remedy will involve the extension of the underpin to members who are not currently offered protection. In order to perform an accurate underpin calculation for a member, a full history of part time hours changes and service break information from 1 April 2014 is needed.

Hours and service break data **may be needed from Scheme employers** for active members and members with a leaving date after 31 March 2014 (who are not covered by the current underpin).

12) September 2019 rate of CPI

On 16 October 2019, the Office for National Statistics announced that the Consumer Prices Index (CPI) rate of inflation for September 2019 was 1.7%.

Government policy in recent years has been to base both pensions increase 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 for September of the previous year. We await confirmation from the Government that the revaluation of pension accounts and the pensions increase to apply to deferred LGPS pensions and LGPS pensions in payment in April 2019 will be 1.7%.

13) High Court dismisses State Pension age discrimination claims

On 3 October 2019, the High Court dismissed claims that the increase in State pension age from 60 to 66 for women born in the 1950s was discriminatory. The judgment found that there had been no discrimination based on sex, or age and sex combined. The judges ruled that the legislation does not treat women less favourably than men in law, rather it equalises a historic asymmetry between men and women and corrects historic discrimination against men.

The Backto60 campaign group have since filed for permission to appeal the decision.

14) Annual Allowance Tax charges

HMRC have published a new guide about paying the AA tax charge for pension scheme members. The guide titled ‘who must pay the pensions annual allowance tax charge' has information about ‘mandatory’ and ‘voluntary’ scheme pays and provides links for members on declaring their AA charge on their self-assessment return.

Administering authorities are asked to remind those members who have exceeded their annual allowance for 2018/19 and who do not have sufficient unused annual allowance to carry forward to cover the excess, that they must declare this on their Self-Assessment tax return, even if the administering authority is paying the tax charge.

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