

## Current Issues

### 1) **Good Governance project**

SAB approved resources for Phase three of the Good Governance project. This phase will determine:

- the outcome measures it will use
- the format of this work, and
- a timetable for implementation.

### 2) **The LGPS (Amendment) Regulations 2020 – exit credits**

On 27 February 2020, MHCLG published a partial response to the consultation covering changes to the local valuation cycle and the management of employer risk. The response covers the proposals on exit credits only. MHCLG will submit a further response to the other proposals covered by this consultation in due course.

The response confirms that most respondents supported the proposal to allow administering authorities to take account of an employer's exposure to risk when calculating an exit credit. MHCLG confirms in the response that they will amend the LGPS regulations so that:

- administering authorities may determine the amount of any exit credit payment due, having regard to any relevant considerations
- the period within which an exit credit must be paid is increased from three months to six months
- administering authorities will not be obliged to enquire into the precise risk sharing arrangement adopted
- any exit credits that have not been paid shall only be due if the administering authority exercises its discretion to pay them
- any exit credits that have already been paid shall be treated as if the administering authority exercised its discretion to pay that amount – an administering authority may not seek to change the amount paid
- the Pensions Ombudsman has jurisdiction to hear complaints if any dispute is not resolved using the internal dispute resolution process
- administering authorities should set out their exit credit policy in their Funding Strategy Statement.

### 3) **2020/21 Draft employee contribution bands**

Below are the draft employee contribution bands, which will be effective from 1 April 2020. They are calculated by increasing the 2019/20 employee contribution bands by the September 2019 CPI figure of 1.7% and then rounding down the result to the nearest £100.

**Table 1: Contribution table England and Wales 2020/21**

<b><u>Band</u></b>	<b><u>Actual pensionable pay for an employment</u></b>	<b><u>Main section contribution rate for that employment</u></b>	<b><u>50/50 section contribution rate for that employment</u></b>
<u>1</u>	<u>Up to £14,600</u>	<u>5.50%</u>	<u>2.75%</u>
<u>2</u>	<u>£14,601 to £22,800</u>	<u>5.80%</u>	<u>2.90%</u>
<u>3</u>	<u>£22,801 to £37,100</u>	<u>6.50%</u>	<u>3.25%</u>
<u>4</u>	<u>£37,101 to £46,900</u>	<u>6.80%</u>	<u>3.40%</u>
<u>5</u>	<u>£46,901 to £65,600</u>	<u>8.50%</u>	<u>4.25%</u>
<u>6</u>	<u>£65,601 to £93,000</u>	<u>9.90%</u>	<u>4.95%</u>
<u>7</u>	<u>£93,001 to £109,500</u>	<u>10.50%</u>	<u>5.25%</u>
<u>8</u>	<u>£109,501 to £164,200</u>	<u>11.40%</u>	<u>5.70%</u>
<u>9</u>	<u>£164,201 or more</u>	<u>12.50%</u>	<u>6.25%</u>

**4) Automatic Enrolment (AE) earnings trigger 2020/2021**

The AE earnings trigger for 2020/21 will be £10,000. This is the same as 2019/20. The Government confirmed this in a [written statement on automatic enrolment](#) to Parliament on 13 February 2020. It will lay legislation following the February recess to that effect.

**5) The Pensions Regulator (TPR) seeks to extend supervision to select administrators**

TPR is seeking a voluntary extension to its supervision regime. This has already been introduced for the largest schemes in the UK. It will attempt to build relationships with pensions administrators of critical importance. These are the top 75 outsourcing companies and in-house teams in the country.

Key areas of focus for interaction will include:

- trustee relationship management
- handling of client transitions
- data quality controls
- due diligence on scams
- member communications
- resourcing and training
- business continuity and cyber resilience.

TPR is hopeful that a final list could be ready by the end of 2020.

**6) 2020 Public Service Pension Scheme (PSPS) Indexation and Revaluation**

On 25 February 2020, the Government made a written statement on indexation and revaluation. The statement confirms that the following LGPS benefits will both increase by 1.7% In April 2020:

- pensions in payment, and
- active member career average benefits.

The statement also confirms the increases that will apply to career average benefits in other Public Service Pension Schemes:

- Police Pension Scheme: 2.95%
- Firefighters' Pension Scheme: 4%
- Civil Service Pension Scheme: 1.7%
- NHS Pension Scheme: 3.2%
- Teachers' Pension Scheme: 3.3%
- Armed Forces Pension Scheme: 4%
- Judicial Pension Scheme: 1.7%.

#### **7) LGPS National Knowledge Assessment (NKA)**

Hymans Robertson have launched their NKA. This follows their first ever LGPS National Confidence Assessment (NCA). The assessment will look at the knowledge levels of key decision makers. Key decision makers are Pension Committee (PC) and Pension Board (PB) members. By participating in the assessment, each administering authority will receive:

- their own results report
- Hymans Robertson analysis and suggested next steps
- their benchmarked position against other LGPS administering authorities
- a recommended training plan tailored for their PC and PB.

Following the assessment, Hymans Robertson will publish a National Report. This will contain commentary and analysis on the current LGPS PC and PB landscape. Hymans Robertson will send an invitation to all administering authorities in March 2020. Completion of the survey will take 15 to 20 minutes for each PC or PB member. Hymans have announced an extension to the NKA, which will now continue into May 2020. For further information, please contact [marketing@hymans.co.uk](mailto:marketing@hymans.co.uk).

#### **8) Employment tribunal makes interim declaration in favour of firefighters**

The Fire Brigades Union won a landmark victory which allowed members of the 1992 and 2006 firefighters pension schemes in England and Wales to be treated as if they had remained members of their original pension scheme. The decision was an interim declaration covering immediate cases such as members who have taken ill-health retirement, the final declaration is expected in July 2020 but it may be some time before this part of the remedy can be put into effect for all claimants.

Some members of the Firefighters' Pension Scheme may have been better off in the new CARE scheme and would suffer a detriment if they simply moved back to the old schemes, so the government's intention is to ensure that such persons can keep the benefits they have accrued.

A consultation will be issued in the Spring on the exact remedy for the unfunded public sector schemes.

The ruling could result in other public sector staff being returned to their original pension schemes. One possible remedy for the LGPS is that the underpin is extended so affected member gets the best of either the CARE or Final Salary benefits. Funds should be preparing a strategy to contact employers and ideally giving them sufficient warning that requests for McCloud/Sargeant.

Whilst there is uncertainty over what the eventual remedy will look like for the LGPS, what is more certain is the fact that the major pain is going to be felt in an administrative sense. It's almost certain that Funds will need to collect data for virtually all members who joined the scheme prior to 2014 and left after 2014, input that information into the administration system and then deal with any recalculations that are required.

#### **9) Obtaining IRMP opinions during the pandemic**

LGA have queried the position about obtaining opinions from Independent Registered Medical Practitioners (IRMPs) during the current crisis with the Association of Local Authority Medical Advisers (ALAMA), who confirmed that ill health applications should continue to progress during the pandemic. The following statement has been published on the ALAMA website:

“During the current COVID-19 crisis, it is important to continue to progress ill health retirement applications. It is also particularly important that assessments remain fair and reasonable, and that should include requesting GP and specialist reports as required. There has never been a requirement for these assessments to be face to face, therefore paperwork reviews, with telephone clarification if needed, is the most appropriate way to progress these.

If it is not possible to get reports, an assessment should be based on whether reports are likely to influence your decision further, and whether you have enough objective evidence to make an opinion. Opinions should always be ‘on balance of probability’. There will be times when you simply don’t have sufficient objective evidence to support ill health retirement, and you have been unable to get clinical reports. You should suggest that the applicant requests copies of clinical reports direct from their GP.”

Employers and administering authorities may experience delays in obtaining an IRMP’s opinion in relation to an ill health retirement application or a Tier 3 ill health review. Any such delay could affect the date from which an ill health pension is payable, or the date that a Tier 3 pension is upgraded to Tier 2. To help them make their decisions, employers and administering authorities may wish to ask IRMPs to include in their report information about any delays due to COVID-19 that have affected the member’s application.

**10) Death in service guarantees for frontline COVID-19 staff**

The Department of Health and Social Care issued a press release on 27 April 2020 about a new guaranteed life assurance scheme for frontline health and care workers in England. Families of eligible workers in England who die from coronavirus will receive a £60,000 payment, funded by the Government. Full details of the scheme are not yet available. We understand that any payment would be in addition to death in service benefits payable in respect of care workers who are also LGPS members.

**11) Cash flow survey**

The cash flow survey conducted by the LGA show that a small minority of funds anticipate issues due to loss of dividend income or delayed employer contributions. Any new issues identified in the survey responses that are not covered in existing regulations have been referred to the new SABEW practitioner advisory group and/or Government to consider. You can read a summary of the cash flow survey responses on the SABEW website.

**12) Job retention scheme**

Employers can now claim for wages through the Coronavirus Job Retention Scheme on the Government website. On 15 April 2020, the Chancellor made a Treasury Direction under the Coronavirus Act which sets out the legal framework for the Scheme. The Schedule to the Direction confirms that HMRC is responsible for making payments and managing the amounts of payments under the Scheme.

On 17 April 2020, HMRC published guidance on working out how much to claim through the Job Retention Scheme.

On 24 April 2020, the Government announced that furloughed workers will receive full parental leave entitlement. On the same date, The Maternity Allowance, Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay (Normal Weekly Earnings etc.) (Coronavirus) (Amendment) Regulations 2020 [SI2020/450] were laid. The purpose of these new Regulations is to make sure workers who take family-related leave are not worse off because they have been furloughed

**13) Supreme Court Judgment on LGPS boycotts**

On 29 April 2020, the Supreme Court handed down its judgment in the case of R (on the application of Palestine Solidarity Campaign Ltd and another) (Appellants) v Secretary of State for Housing, Communities and Local Government (Respondents). The case was originally heard on 20 November 2019. The Supreme Court found in favour of the appellants and would appear to take the position that the Government has the power to direct authorities on the approach they take to investment decisions, but not on the investments they make.

[A summary of the judgment \(PDF 180kb\)](#) published by the practice at 11KBW is available. Please note that this summary represents the views of 11KBW and not the SAB.

#### 14) **McCloud subgroup meetings**

The SAB has set up two working groups to work with MHCLG in developing and implementing the LGPS McCloud remedy. Due to the current restrictions, Lorraine Bennett, the chair of the implementation group, has formed three subgroups that will meet virtually. The subgroups are made up of representatives from employers, administering authorities, pension administration software suppliers, unions, actuarial firms, NILGOSC and the LGA.

**Data collection:** the data collection subgroup held their first virtual meeting on 22 April 2020. In order to implement the McCloud remedy, most administering authorities will need to gather service information from 1 April 2014 (2015 in Scotland) for members in scope of protection from employers. The group will produce a data collection template for employers and payroll providers to use to supply that information. To ensure the message to employers remains consistent, the group will draft key bullet points for administering authorities to include within their employer communications.

**Communications:** the communications subgroup met on 24 April 2020. The group will produce templates for administering authorities to use to request service data from employers. The group agreed that their priority is to produce communications for members that explain the scheme changes and make it clear that they do not need to make a legal claim, they will get the protection they are entitled to automatically.

**Software:** the software subgroup will consider what system changes are needed to implement the remedy.

#### 15) **Regulations extend accounting deadlines**

The Accounts and Audit (Coronavirus) (Amendment) Regulations 2020 [SI2020/404] come into force on 30 April 2020. The Regulations extend the publication date for local authority audited accounts to 30 November 2020. The public inspection period will start on 1 September 2020. The Government has published an Explanatory Note to accompany the regulations.

There are no plans for an automatic extension to the publication date for LGPS fund reports and accounts. MHCLG will keep this matter under consideration. Please email [query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk) to inform us of any issues arising from these regulations.

#### 16) **Temporary changes to pensions tax for returning workers**

Members of certain public service pension schemes retain the right to retire (in normal health) before age 55. Under normal circumstances, rules covering reemployment must be followed if the pension and lump sum payments are to be considered authorised. Protected pension ages and re-employment are covered in Part 3 of Schedule 36 to the Finance Act 2004.

John Glen, the Economic Secretary to the Treasury issued a [written statement on temporary changes to pensions tax](#) on 22 April 2020. The statement confirms that the Government intends to 'temporarily suspend tax rules that would otherwise apply significant tax charges to pension income received by recently retired

individuals aged between 50 and 55'. The measure will only apply to those people returning to work as a result of COVID-19. HMRC have provided more information about this change in [Pension schemes newsletter 119](#).

Although we expect that these provisions will mainly affect employees returning to the NHS, it is possible that employees who recently retired from a 'uniformed' role who return to employment, including in a civilian role, in the fire or police service could be affected.

#### 17) TPO

##### **TPO COVID-19 update**

The Pensions Ombudsman (TPO) was providing a restricted service due to the pandemic. TPO have announced that from 22 April 2020 they will accept new applications by email, and that their phone lines are open from 9am to 5pm Monday to Friday. TPO will not have access to correspondence sent by post during the lockdown period. Please be aware that TPO response times may be longer than usual.

#### 18) TPR

##### **COVID-19: member communications and transfer warning**

The Pensions Regulator (TPR) published guidance on [communicating to members during COVID-19](#) on 29 April 2020. The guidance covers information we have included on our website, emails and standard correspondence about changes to our service delivery and response times.

The guidance emphasises the importance of supporting members to make an informed decision when they are considering a pension transfer.

TPR recognises that members are at risk of making decisions that reduce the value of their pensions, or of losing them entirely to pension scams during the current crisis. On 29 April 2020, the Pensions Regulator (TPR) announced that [Pension schemes are to issue a COVID-19 transfer warning](#) to members considering transferring from a defined benefit to a defined contribution pension during the crisis.

TPR, working with the FCA and the Pensions Advisory Service, has produced a [letter template \(PDF, 171kb\)](#) to issue to members requesting a CETV quote. The letter as currently drafted includes references to the Pension Protection Fund (PPF) and its role in paying pensions when employers become insolvent. This does not apply to the LGPS and could confuse members. We have requested that TPR supply a version of the letter for public sector schemes that does not include any references to the PPF. We will publish this public sector version as soon as it is available. In the meantime, administering authorities may choose not to send the template letter, or to send it with an explanation that the references to the PPF do not apply.

TPR has also requested that:

“You should actively monitor the number of requests for CETV quotes you receive and which advisers are supporting members' requests. If you identify unusual or concerning patterns, such as spikes in CETV requests or the

same adviser across a multitude of requests, please contact the FCA at [DBTransferSchemeInformation@fca.org.uk](mailto:DBTransferSchemeInformation@fca.org.uk).”

## 19) Other COVID-19 guidance

TPR has published useful guidance for pensions administrators and employers covering issues affected by COVID-19. Visit [COVID-19: What you need to consider](#) to find out more about the TPR guidance.

On 9 April 2020 TPR published the following guidance:

- [Automatic enrolment and DC pension contributions](#). Although not aimed at defined benefit pension schemes such as the LGPS, the guidance confirms that there is no change in employers’ responsibilities under automatic enrolment rules. The guidance also includes a reminder that employers must not encourage staff to opt out of the scheme or pay reduced contributions.
- [An update on reporting duties and enforcement activity](#). The update provides more detail about the flexible approach that TPR will adopt in response to certain breaches during the COVID-19 pandemic. The easements will remain in place until 30 June 2020, but this may be extended

## 20) MaPS provide a pensions dashboard update

On 8 April 2020, the Money and Pensions Service (MaPS) published Pensions Dashboard Programme – Progress Update Report. The MaPS intends to release a progress report every six months. The first report sets out:

- the pensions dashboards goals and some of the challenges associated with delivery
- that Primary legislation will provide certainty about the requirements placed on schemes and the timescales for compliance
- the importance of secure and accurate identity verification
- the challenge of specifying a consistent set of data standards so that information from different schemes can be displayed consistently
- the need to identify when in the staged onboarding process the dashboards should be made available to the public<sup>11</sup>
- the focus of the Pensions Dashboards Programme over the coming months.

The MaPs published two further papers in April 2020. Pensions Dashboards Data Definitions – Working Paper lists the set of data items that could be included in the dashboards data standards. This covers both data items that are needed to find a member’s pensions and those that would be useful for users to see on a dashboard. The list will be developed further in response to user and sector research. Options for achieving early breadth of coverage are considered in Pensions Dashboards Data Scope: Working Paper. This paper confirms that initial dashboards will only include information that is already available on annual statements. This should enable the maximum number of pension schemes to onboard at an early stage. More information is likely to be included in pensions dashboards in the future.

The MaPS will be asking for formal feedback at a later stage and welcomes informal feedback from stakeholders now.

**21) New procurement framework for pensions administration software**

The National LGPS Frameworks launched the Pensions Administration Software Framework on 27 April 2020.

The following providers have been appointed to the National LGPS Framework for Pensions Administration Software:

- Aquila Heywood Ltd
- Civica UK Ltd
- Equiniti.

You can access further information about the framework on the National LGPS Frameworks website. If you need more details about the framework or would like to see copies of the supporting documentation, please contact [NationalLGPSframeworks@norfolk.gov.uk](mailto:NationalLGPSframeworks@norfolk.gov.uk).

**22) Unions file court proceedings over cost control mechanism 'pause'**

Four unions including the FBU and the GMB have filed court proceedings against the Government. They claim that the pause in the cost control mechanism is unlawful. The 2016 valuation found that the cost of providing public service pension schemes was below target. The unions are arguing for an improvement in member benefits as a result of the valuation results.

In January 2019, the Government announced a pause in the cost control mechanism process due to the McCloud decision. The Government plans a new valuation once the remedies to remove the age discrimination have been finalised and the true cost of providing public service pension schemes can be assessed.

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