Appendix B

Current Technical Issues

New Local Government Minister

Kemi Badenoch was appointed Minister of State at the Department for Levelling Up, Housing and Communities (DLUHC) on 16 September 2021. Kemi is the Minister responsible for the LGPS, replacing Luke Hall who left the role in September 2021 following a Government reshuffle.

SF3 data published

On 27 October 2021, DLUHC published Local government pension scheme statistics (SF3 statistics) for England and Wales: 2020 to 2021. Highlights include:

- total expenditure of £13.4 billion
- total income of £17.2 billion, an increase of 7.5 per cent on 2019/20
- employer contributions increased by 32.46 per cent on 2019/20 to £10.2 billion
- employee contributions of £2.4 billion
- the market value of LGPS funds in England and Wales on 31 March 2021 was £332.7 billion, an increase of 22.14 per cent
- there were 6.1 million scheme members on 31 March 2021, 2.0 million active members, 1.8 million pensioners and 2.2 million deferred members
- there were 82,567 retirements in 2020/21, a decrease of 6.4 per cent compared with 2019/20.

HMT publishes consultation response on the cost control mechanism

On 4 October 2021, HM Treasury (HMT) published its response to the Public Service Pensions: cost control mechanism consultation.

The Government's response confirms it will proceed with all three proposed reforms:

- moving to a reformed scheme only design so that the mechanism only considers past and future service in the reformed schemes. Costs related to legacy schemes are excluded
- the cost corridor will be widened from two per cent to three per cent of pensionable pay
- introducing an economic check so that a breach of the mechanism will only be implemented if it still would have occurred had the long-term economic assumptions been considered.

The Government is aiming to implement all three proposals in time for the 2020 valuations. It will work with the DLUHC and LGPS stakeholders to consider:

- the most appropriate way to implement the reformed scheme only design in the LGPS (including how to treat the underpin)
- whether it is desirable for the SAB process to be adapted in line with the principles of the economic check.

New webpage on how to avoid the Ombudsman

In October 2021, the Pensions Ombudsman (TPO) launched a new page on its website called 'How to avoid the Ombudsman'. It contains 'top tips', links to case studies, key determinations and new frequently asked questions.

TPO also published a guidance note on communicating with pension scheme members. The note sets out simple steps that can be taken to resolve pension disputes and complaints without the need for TPO to be involved.

Autumn budget 2021

On 27 October 2021 the Government announced its Autumn 2021 budget and spending review.

Of particular interest to the LGPS is the publication of the Government's response to the Call for Evidence on pensions tax relief administration.

The Government's response announces that it will introduce a system to make top up payments directly to low-earning members using the net pay arrangements. This will broadly equalise the outcomes for all low earning pension savers. Unfortunately, the top up payment will not be automatic, members will need to claim the top up payment directly from HMRC.

Top-up payments to members will commence in 2025/26 regarding the 2024/25 tax year. The response claims an estimated 1.2 million individuals could benefit by an average of £53 a year.

Draft regulations for pensions dashboards

Chris Curry, Principal of the PDP, announced in October 2021 that draft regulations on pensions dashboards are expected to be published before the end of 2021 or early in 2022. This follows on from the enactment earlier this year of the Pension Schemes Act 2021. The draft regulations will provide more information about the data standards, what data will have to be supplied and how pension providers will need to provide it.

Finance (No.2) Bill 2021/22

On 2 November 2021, HM Treasury (HMT) formally introduced the Finance (No.2) Bill 2021/22 to Parliament. The Bill includes a number of provisions that may affect the administration of the LGPS.

Clause 9: Changes to annual allowance scheme pays deadlines

This clause changes deadlines associated with mandatory scheme pays. The period within which some members must give notice of their election will be extended. The deadline for administrators to provide information about annual allowance tax charges will also change.

Clause 10: Increase in normal minimum pension age

This clause introduces an increase in the normal minimum pension age (NMPA) to age 57 from 6 April 2028. The clause includes significant changes from the proposed policy that was consulted on between February and April 2021.

- Members of uniformed services pension schemes will be exempt from the increase to the NMPA.

- Members of registered pension schemes who had a right to take their entitlement to a benefit under their scheme before age 57 before 4 November 2021 will have a protected pension age. A protected pension age will only affect the age at which an LGPS member can take their pension if the responsible authority makes changes to the scheme rules to implement the protected pension age. We do not yet know whether the responsible authorities plan to make such changes.

- Members will continue to benefit from a protected pension age after completing either an individual or block transfer. The Bill will introduce transitional measures for members who had already started the process to transfer to a scheme in which they would have a right to take their benefit before NMPA, providing the transfer process started before 4 November 2021.

- Members who join the LGPS from 4 November 2021 will not meet the entitlement condition.

It is important to note that this Bill is currently in draft form. However, administering authorities may wish to consider making changes to their processes now to reduce the likelihood that they will have to re-visit transfer cases in the future. Those changes include:

- Requesting additional information when a member who joined the LGPS on or after 4 November 2021 completes a transfer of pension rights from another scheme. Administering authorities should ask the transferring scheme whether the member met the entitlement condition in their scheme, specifically:

    - did the member have an actual or prospective right under the pension scheme to any benefit from an age less than 57 immediately before 4 November 2021?

    - did the rules of the pension scheme on 11 February 2021 include provisions conferring such a right on some or all members of the scheme? And

    - did the member have such a right on 11 February 2021, or would they have had such a right if they had been a member on that date?

The effect of the answer to this question will depend on what changes are made to the LGPS regulations.

- When a member who joined the LGPS before 4 November 2021 transfers out, informing the receiving scheme that the member met the entitlement condition in the LGPS.

- When a member who joined the LGPS on or after 4 November 2021 transfers out, informing the receiving scheme that the member did not meet the entitlement condition in the LGPS. You may need to supply additional information if the member's LGPS benefits include a transfer in that has been 'ringfenced' – see below.

- 'Ringfencing' benefits that a member who met the entitlement condition in their previous scheme transfers into the LGPS, if the member first joined the LGPS on or after 4 November 2021. You may wish to engage with your software suppliers to discuss how this can be achieved.

Clause 11: Tax impacts resulting from the McCloud remedy

The clause provides HMT with the power to make regulations to address tax impacts that arise as a result of implementing the McCloud remedy. Provisions made under this section may be retrospective and may be different for different member types. The changes will have effect from 6 April 2022 or later.

Legal challenge: McCloud costs and cost control mechanism

Unions have launched a judicial review against the Treasury concerning including McCloud remedy costs in the cost control mechanism. The FBU, GMB and BMA argue that the cost of rectifying the discrimination should not be met by scheme members.

The provisional results of the 2016 cost control mechanism showed that all public service schemes were cheaper than expected. This would have led to a reduction in contributions or improvements in benefits from April 2019 had the cost control process not been paused.

Updates from PASA

Recent updates from the Pensions Administration Standards Association (PASA):

- The PASA GMP working group published a briefing note on GMP reconciliation data and transition to a new administration provider on 9 November 2021. The briefing note addresses how data related to GMP reconciliation should be treated if you change administrators.

- PASA launched their new Data Management Controls Guidance on 11 November 2021. The guide aims to provide practical support for administrators in developing their own data management controls to ensure data remains in good shape.

- PASA announced ITM as their new expert partner for pensions dashboards. ITM will assist PASA in ensuring the administration industry's challenges and voices are heard as pensions dashboards are being developed.

Section 13 report

On 16 December 2021, DLUHC published GAD's report on the 2019 fund valuations. The report is required by section 13 of the Public Service Pensions Act 2013.

The Government Actuary's Department (GAD) found the scheme's financial position had strengthened since its previous review in 2016, on the back of buoyant investment returns between 2016 and 2019. Also, LGPS funds have made progress against the 2016 review recommendations.

The main findings are:

- Compliance - fund valuations were compliant with relevant regulations.
- Consistency - funds implemented GAD's 2016 recommendation to provide a standard dashboard to aid readers when comparing of results for different funds. However, differences in methodology and assumptions do mean that a like for like comparison s not straightforward.
- Solvency - the size of pension funds has grown considerably more than local authority budgets since 2016, so there's an increased risk of strain on employers from any future funding changes.
- Long-term cost efficiency - where relevant, funds had generally acted on GAD's 2016 recommendations on operating plans to close any deficit funding gaps. GAD highlighted four funds they are concerned about the level or trajectory of employer contributions and the implications for taxpayers.

Next steps

GAD's recommendations for funds or the Scheme Advisory Board to consider during the local valuations in 2022 include:

- improve consistency in the approach to assessing emerging and existing key issues, such as recent legal judgements and setting employer contributions for new academies
- ensuring deficit recovery plans can be demonstrated to be a continuation of the previous plan
- continue with ongoing improvements on transparency through an expanded valuation dashboard
- review the governance around asset transfer arrangements from local authorities.

DWP launch second review of State Pension age

The review was launched on 14 December 2021. It will consider if the State Pension age (SPa) rules are still appropriate based on the latest life expectancy data and other evidence.

The Pensions Act 2014 requires Government to regularly review SPa and for the latest review to be published by 7 May 2023.

Two independent reports will be commissioned as part of the review:

- the Government Actuary will provide a report assessing the appropriateness of SPa considering the latest life expectancy projections
- Baroness Neville-Rolfe will provide a report on other relevant factors including recent trends in life expectancy and other metrics.

Evidence from across the UK will be considered in the review.

Pension scams: new restrictions on transfers

On 17 December 2021, Jayne Wiberg emailed administering authorities to let them know we published version 2.0 of the non-club transfers out technical guide, alongside template letters. These can be accessed on the Administrator guides and documents pages of www.lgpsregs.org.

The guide is updated to reflect the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021('the regulations'). See Bulletin 216 for more information.

The regulations do not replace existing due diligence processes, which we recommend should be in line with the Pension Scams Industry Group's 'Combating Pension Scams: Code of Best Practice'. The regulations build on this.

The regulations apply to the payment of cash equivalent transfers for:

- deferred members who request a statement of entitlement on or after 30 November 2021 (main scheme benefits only)
- AVC members who elect for payment of a transfer on or after 30 November 2021
- pension credit members who elect for payment of a transfer on or after 30 November 2021 (main scheme and / or AVCs).

The regulations do not apply to the payment of cash transfer sums i.e. deferred refunds, nor to pensions on divorce transfers.

Although, the guide does not cover qualifying recognised overseas pension schemes (QROPS) or AVC transfers, the new regulations apply in a similar way to these as they apply to other transfers. The main differences are:

- for transfers to QROPS, members need to demonstrate a residency link to the country in which the QROPS is based, or, where the QROPS is an occupational pension scheme, either the residency link or employment link
- for AVC transfers, you must let the member know about the new regulations within one month of receiving the election to transfer.

We will be setting out more details about how the new regulations apply to QROPS and AVC transfers in due course.

To support administering authorities in applying the new regulations, we have revised our existing acknowledgement letter and created three new template letters, that you can also use for transfers to QROPS and transfers of AVCs.

Information to be provided to member upon initial enquiry (version 2.0)

The new regulations require administering authorities to notify deferred members applying for statements of entitlement on or after 30 November 2021, that the transfer can only proceed if there are no red flags present or the transfer is to a public service scheme, master trust or collective money purchase scheme. Administering authorities must notify the member within one month of the application. We have updated this letter to include this information.

Information to be provided on payment request of AVCs or pension credits (version 1.0)
The new regulations require administering authorities to notify members who elect to transfer their pension credit benefits or AVCs on or after 30 November 2021, that the transfer can only proceed if there are no red flags present or the transfer is to a public service scheme, master trust or collective money purchase scheme. Administering authorities must notify the member within one month of the election. This letter sets out this information.

Information to be provided on transfer payment (version 1.0)
Once administering authorities have decided about whether the transfer can proceed taking into account the new regulations, they must notify the member. If administering authorities decide that the transfer can proceed, they must notify the member by no later than the date they write to the member confirming that they have paid the transfer. This letter provides this confirmation.

Refusal to transfer (version 1.0)
If administering authorities decide that there are red flags present so they must stop the transfer and notify the member within seven working days of their decision. This letter sets out what you need to tell the member if you decide to stop the transfer.

Action for administering authorities WYPF will review the guide and correspondence to ensure that our transfer out process is in line with the new regulations.

Pensions dashboards – A to Z industry guide
On 16 December 2021, the Pensions and Lifetime Savings Association published an A to Z industry guide containing decisions that are required to make the initial pensions dashboards a success. The guide looks at seven key areas covering:

- testing and managing savers' understanding
- integrated service provider technical connections with the digital architecture and dashboards
- GDPR compliance
- clarity on the liability regime
- the definition of view data to be returned
- clarity on the timeline
- regulation of data provision.

The guide is intended to help the people engaged with preparing for pensions dashboards, better understand the key issues to be assessed and resolved.

Action for administering authorities WYPF will review the guide and start preparing for pension dashboards.

Pensions dashboards – commercial dashboard providers

On 15 December 2021, the Pensions Dashboard Programme (PDP) announced that it has selected three potential dashboard providers to take part in initial development of the dashboards ecosystem: Aviva, Bud and Moneyhub.

In addition to the Money and Pensions Service's non-commercial dashboard, PDP will work with these companies to support the early work on design standards and technology.

Pensions dashboards – data matching guidance

On 7 December 2021, the Pensions Administration Standards Association (PASA) published initial guidance on the choice of data matching convention, schemes must make ahead of their compliance with the upcoming pensions dashboards legislation.

The guidance details how every pension scheme must choose how they wish to compare 'find requests' from dashboard users against the member records they hold. Choice of matching will depend on the accuracy of the personal data held by administering authorities, across all of their deferred and active member records.

The initial guidance does not completely resolve the matching challenges. Questions about liability and maybe matches remain outstanding. Though this is an important step in helping administering authorities prepare for dashboards.

Action for administering authorities WYPF will review the accuracy of the personal data values held for all active and deferred members, in due course.