Appendix D

Regulatory Update

Department for Levelling Up, Housing and Communities (DLUHC)

Annual revaluation date change

On 9 March 2023, the Department for Levelling Up, Housing and Communities' (DLUHC) published its response to the consultation on changing the annual revaluation date. On the same day, they laid the LGPS (Amendment) Regulations 2023, effective on 31 March 2023.

On 17 March 2023, Lorraine Bennett emailed administering authorities and pension software suppliers confirming we have published bulletin 234A. The bulletin covers the changes in detail, including examples.

You can find links to all the documents on the Scheme consultations page of www.lgpsregs.org.

We will update the timeline regulations shortly.

Consultation on the annual revaluation date change

On 10 February 2023, the Department for Levelling Up, Housing and Communities (DLUHC) published a consultation and draft regulations on changing the annual revaluation date in the L G P S. If laid, the regulations will take effect from 31 March 2023.

The Regulations were laid and WYPF has implemented a change of date for annual revaluation to be applied from 6 April each year.

The consultation closed on 24 February 2023. You can find our response on the Scheme consultations page of www.lgpsregs.org. Our response states that whilst we agree in principle with the change, we do not agree with the timing. We also comment that whilst the policy aim is mostly addressed by the draft regulations, some technical amendments are required.

The proposals seek to remove the impact of inflation on the annual allowance. It does so by changing the annual revaluation from the 1 to 6 April 2023, and thereafter on each 6th of April, for all members. It is intended there is no change in the outcome for:

- all members whose benefits in payment would increase on 1 April
- death grants for deferred and pensioner members who die in the period 1 to 5 April.

When DLUHC respond to the consultation we will produce a special bulletin covering the changes and their impact.

Background

The annual allowance (AA) should reflect the increase in a member's pension benefits above inflation. However, since HM Treasury realigned the period over which pension growth is measured with the tax year in 2015/16, inflationary increases are taken into account.

As things currently stand, the allowance for inflation in the AA calculation does not match the annual revaluation applied to pension accounts. To date the imbalance has been negligible because inflation has been low.

However, the imbalance for tax year 2022/2023 is 7 per cent. This is the difference between the allowance for inflation in the AA calculation of 3.1 per cent and the annual revaluation of 10.1 per cent. Consequently, without changes to scheme regulations, there will be a significant increase in the number of L G P S members breaching the annual allowance and potentially incurring a tax charge.

By moving the annual revaluation to 6 April the imbalance is removed. Both the AA inflation and the annual revaluation will use the same September CPI, meaning that only members pension savings will count towards the AA.

DWP

SCAPE discount rate and impact on actuarial factors

On 30 March 2023, Lorraine Bennett emailed administering authorities in England and Wales letting them know the superannuation contributions adjusted for past experience (SCAPE) discount rate reduced on 30 March 2023 to the consumer price index (CPI) plus 1.7 per cent. This is a change from CPI plus 2.4 per cent. This was announced in a written ministerial statement by the Chief Secretary to the Treasury.

Impact to actuarial factors

The reduced SCAPE discount rate is effective from 30 March 2023. DLUHC and SPPA have confirmed the following calculations should be immediately suspended until new factors are issued:

- certain non-club transfers and interfund / intrafund calculations
- certain non-club cash transfer sums
- all cash equivalent values (CEV) for divorce.

SCAPE tables for England & Wales, setting out the transitional arrangements in detail, accompanies this bulletin. We have updated the table to include cash transfers sums and contribution refunds.

We understand DLUHC and SPPA will issue new transfer factors in April / May. They have also confirmed the remainder of the Scheme's actuarial factors will be amended in due course. Their intention is to introduce revised factors over a four-month period starting in April 2023.

We recommend administering authorities:

- communicate the impending changes to actuarial factors to members, when providing retirement quotations with an effective date on or after 1 April 2023
- notify the court where they have provided a CEV for divorce purposes but a pension sharing order has not yet been made. This will allow for the change in the CEV to be taken account in the financial settlement.

Until new GAD factors are released all processes involving transfers and divorces have been suspended at WYPF.

HMT

Confirmation of annual revaluation, earnings and pensions increase

On 20 February 2023, H M Treasury (HMT) published a written ministerial statement confirming the rates of annual revaluation, earnings and pensions increase (PI) due to apply in April 2023.

The statement confirms:

• public service pensions will increase on 10 April 2023 by 10.1 per cent, in line with the Consumer Prices Index (CPI) up to September 2022

• annual revaluation of 10.1 per cent plus any local addition will be used to revalue the 2014 / 2015 CARE accounts in April 2023 for those public service pension schemes (PSPS) that rely on prices as the measure for revaluation

• annual revaluation of 7 per cent will be used to revalue the 2015 CARE accounts in April 2023 for those PSPSs that rely on earnings as the measure for revaluation.

Tax rules for McCloud remedy laid

On 6 February 2023, the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 were laid. They apply to relevant public service pension schemes and are in force on 6 April 2023. See bulletin 231 for more information.

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

LGA response to consultation on tax rules for McCloud remedy

On 6 January 2023, we responded to HMRC's consultation on the draft Public Services Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023.

HMRC consulted on the regulations from 24 November 2022 to 6 January 2023, which we covered in Bulletin 231.

You can find the consultation documents, including our response, on the:

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

Scheme Advisory Board (SAB)

SAB responds to cost management consultation

On 6 March 2023, the SAB responded to the consultation on changes to their cost management process. The response is generally supportive of the Department for Levelling Up, Housing and Communities' (DLUHC) approach. See bulletin 233 for more information.

The consultation documents, including SAB's response, are on the Scheme consultations page of www.lgpsregs.org.

SAB Scheme Valuation Report 2022

The Board's Secretariat is currently planning for the Board's 2022 Scheme Valuation Report.

The report is aggregated using data from individual fund valuation reports. It would be a great help if administering authorities send their valuation reports to the Board's Data Analyst, Gareth Brown, as soon as they have a final version. These will be treated confidentially and only shared on the Board's website once published by the administering authority.

2023/24 employee contribution bands

Table 1 sets out the employee contribution bands effective from 1 April 2023. These are calculated by increasing the 2022/23 employee contribution bands by the September 2022 CPI figure of 10.1 per cent and then rounding down the result to the nearest £100.

Table 1: Contribution table England and Wales 2023/24

Band	Actual pensionable pay for an employment	Main section contribution rate for that employment	50/50 section contribution rate for that employment
1	Up to £16,500	5.50%	2.75%
2	£16,501 to £25,900	5.80%	2.90%
3	£25,901 to £42,100	6.50%	3.25%
4	£42,101 to £53,300	6.80%	3.40%
5	£53,301 to £74,700	8.50%	4.25%
6	£74,701 to £105,900	9.90%	4.95%
7	£105,901 to £124,800	10.50%	5.25%
8	£124,801 to £187,200	11.40%	5.70%
9	£187,201 or more	12.50%	6.25%

McCloud – Judgment on cost cap mechanism handed down On 10 March 2023, the High Court ruled that HM Treasury's decision to include the McCloud remedy in the cost cap mechanism was not unlawful. The unions consulting with their legal team regarding any appeal.

Update on McCloud data issues guidance

We are currently working on guidance to assist administering authorities with McCloud data issues. The guidance will set out what options administering authorities in England and Wales may consider if they are unable to collect the data needed to implement the McCloud remedy. It will cover both missing data and data the authority is not confident is accurate.

The Scheme Advisory Board (England and Wales) hope to publish the guidance by the end of February 2023.

The McCloud data issues scoping group was set up to inform this guidance. The group has met three times and includes representatives from:

• each of the regional pension officer groups

• LGA

• actuaries

• Department for Levelling Up, Housing and Communities

• Department of Communities

• the Government Actuary's Department. The scheme advisory boards in Scotland and Northern Ireland will decide whether to publish similar guidance.

Pension Dashboards

DWP announce delays to dashboards connection deadlines

On 2 March 2023, Jayne Wiberg forwarded an email to stakeholders on behalf of the Pensions Regulator (TPR). The email confirms the Government's intention to legislate to amend schemes' connection deadlines. This follows a written ministerial statement issued by DWP announcing the delays. The statement says delays are necessary to give the Pensions Dashboards Programme (PDP) the time it needs to meet the challenges in developing the digital architecture. DWP will provide an update on dashboards to Parliament before summer recess.

It is not clear if connection deadlines for public service pension schemes will change.

Until further information is provided WYPF is maintaining its programme of work with a staging date deadline of September 2024.

TPR Dashboards compliance and enforcement consultation

On 14 February 2023, we responded to the Pensions Regulator's (TPR) dashboards compliance and enforcement consultation. Our response can be found on the:

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

See bulletin 231 for more information about the consultation

PDP publishes consumer protection video

The Pensions Dashboards Programme (PDP) recently published an explainer video on consumer protection. The video explains what protections will be in place to ensure dashboards are safe and secure.

Please see the consumer protection page of PDP's website for more information on this topic.