

CYNGOR SIR POWYS COUNTY COUNCIL**Powys Pension Board
30th September 2020****REPORT BY: Board Secretary****SUBJECT: New Legislation and Guidance**

REPORT FOR: Information

1. Summary

This report provides the Board with an update on any new legislative changes and guidance that has been issued recently.

2. Key points for information**2.1 COVID-19.**

Welsh life assurance scheme. Further information is now available on the NHS and Social Care Coronavirus Life Assurance Scheme 2020 Wales. The scheme will cover front-line health and social care workers who provide treatment, care and other related services directly to those suffering from the disease. The Welsh Government will pay a lump sum of £60,000 in respect of the death of NHS and social care staff if Welsh Ministers conclude the person's death was caused by the virus. The lump sum will be paid in addition to any pension scheme death benefit that also becomes payable.

2.2 Easement to protected pension age rules.

The Government has announced that they were temporarily easing the protected pension age (PPA) rules because of the COVID-19 pandemic. On 2 June 2020, HMRC announced an extension to the easement up to 1 November 2020. On 25 June 2020, the Government amended the Finance Bill 2019-21 (which is currently going through Parliament) to give effect to the temporary easement. On the same day, they also published a tax information and impact note. The draft legislation suggests that the easement applies to any person with a protected pension age who returns to employment (which would otherwise have caused them to lose the protection) between 1 March 2020 and 1 November 2020 (inclusive) where the only or main reason was to help the employer respond to the COVID-19 pandemic. The information note suggests that this is most likely to apply to police officers, firefighters and other uniformed officers.

3. **Scheme Advisory Board update**

Summary of Supreme Court Judgment on LGPS boycotts On 29 April 2020, the Supreme Court handed down [its judgment](#) about whether the Government exceeded its powers when giving guidance directing funds not to pursue policies that are contrary to UK foreign or defence policy.

On 8 June 2020, the SAB published a [summary](#) of the case, which the Board's legal adviser assisted with drafting. The summary aims to clarify the impact of the judgment on administering authorities.

Cost Transparency Initiative launches additional tools.

A year ago, the Cost Transparency Initiative (CTI) published a framework of tools and guidance to help institutional investors better understand their investment costs. The CTI framework is a partnership initiative between the Pensions and Lifetime Savings Association, the Investment Association and the SAB. On 19 June 2020, the CTI launched [additional resources](#) and encouraged remaining schemes and asset managers to adopt the standards.

SAB statement on local pension board meeting cancellations.

It has come to the attention of the SAB that some administering authorities have cancelled meetings of their local pension boards during the COVID-19 emergency.

Having taken legal advice, the SAB is satisfied that:

- arranging a virtual meeting of a local pension board would facilitate the discharge of a local pension board's duty to conduct business during the emergency, and
- a local pension board therefore has the power to hold virtual meetings by virtue of regulation 106(8) of the LGPS Regulations 2013.

A local pension board's terms of reference may already allow virtual meetings. If they do not, the SAB recommends amending them to allow virtual meetings in emergency situations.

You can read the full SAB [statement](#) on virtual local pension board meetings on the SAB website <http://www.lgpsboard.org>.

McCloud data collection survey. On 8 July 2020, the LGA contacted all administering authorities in England, Wales and Scotland to ask them to complete a short survey about the working hours and service break data they have collected since 1 April 2014 (2015 in Scotland).

McCloud data collection.

Administering authorities that have not collected working hours and details of service breaks for all members since 1 April 2014 (2015 in Scotland and Northern Ireland) will need to collect historical data to implement the McCloud remedy for members in scope of protection.

The McCloud implementation group has produced a collection of documents to assist administering authorities with the process of collecting the historical data they will need to calculate the statutory underpin. The following new documents can be found on the www.lgpsregs.org website:

- guidance for administrators
- standard data collection template
- notes to accompany the standard data collection template
- key messages for employers
- Q&As for employers

The SAB recommends that the standard data collection template and notes are used by all administering authorities that need to collect historic data.

SAB summary of MHCLG McCloud remedy consultation.

On 16 July 2020, MHCLG published a consultation on [amendments to the statutory underpin](#). The amendments are designed to remove age discrimination from the LGPS. You can read a summary of the consultation proposals on the [McCloud page](#) of www.lgpsboard.org.

MHCLG consultation on amendments to the statutory underpin.

MHCLG has published a consultation on amendments to the statutory underpin. The consultation seeks views on proposed changes to the LGPS in England and Wales to remove the unlawful age discrimination identified in the McCloud judgment.

In summary, the consultation proposes that:

- members who were active in the 2008 Scheme on 31 March 2012 who joined the 2014 Scheme and do not have a disqualifying break will be covered by underpin protection
- members do not need to have an immediate entitlement to benefits when they leave the Scheme to qualify for underpin protection
- underpin protection will take account of early and late payment actuarial adjustments
- information about the impact of the underpin must be included in annual benefit statements.

Other proposals clarify how the underpin affects the calculation of survivor benefits, transfer values and trivial commutation payments.

The 12-week consultation will close on 8 October 2020.

SAB will be submitting a technical response to the MHCLG consultation. This will include representations to allow the LGPS regulations to be on the statute book ahead of those of the unfunded public service pension schemes, where the coming into force date is expected to be Spring 2022. LGPS

remedy regulations will not have to wait for changes in primary legislation so different timescales should be possible. Getting LGPS McCloud regulations in place sooner will give all parties more opportunity to put processes in place before they come into effect in 2022. The Board also agreed that work should commence on central guidance on how the regulations are to be applied and how individual cases of poor or missing member data should be handled.

Cost Cap

Unlike the HMT arrangement, there is no compulsion on SAB to include McCloud costs in their cost management arrangement. However, it was agreed that no decision should be taken until the HMT Direction on how McCloud costs are to be considered has been published. In principle, the SAB agreed that the LGPS cost cap arrangement should be un-paused in the same way as the HMT arrangement, but no action should be taken until more details are known.

95K Cap

Regulations for capping public sector exit payments were published on 21 July 2020. A technical response to the MHCLG consultation will be produced to ensure that the draft regulations accurately reflect the policy as set out in the consultation document.

Good Governance Project

Hymans Robertson have outlined the work the project team has undertaken during the COVID-19 emergency. Draft papers on how the recommendations set out in the Phase II report are to be implemented, will be completed by the end of September 2020. The Board will consider these drafts when it meets on the 2 November 2020. If approved, the Board will then consider the process and timing of implementation.

4. LGPS England and Wales Update

Actuarial valuation of the LGPS 2016 published

The Government Actuary's Department (GAD) is undertaking an [actuarial valuation of the LGPS as at 31 March 2016](#) as part of the cost control process. This work was on hold because of the changes to the scheme in response to the McCloud judgment. On 15 July 2020, the Government published a GAD report on the membership data that will be used to calculate the valuation results.

Employer cost cap process

Alongside the Public service pension schemes consultation, the Government made an announcement on the cost control mechanism that applies to all public service pension schemes. The announcement confirms that:

- the cost control mechanism pause will be lifted, and the cost control element of the 2016* valuations process will be completed
- the cost of addressing the discrimination identified in the McCloud judgment will be included in this process.

* it is assumed that the LGPS in Scotland will be included, even though the effective date of the valuation is 2017 under the Public Service Pensions (Valuations and Employer Cost Cap) Directions 2014.

GAD issued a Technical [bulletin](#) on public service pensions on 16 July 2020 which summarises:

- the introduction of transitional protections when public service pension schemes were reformed in 2015
- proposals to remove the age discrimination
- the differences between immediate choice and deferred choice
- technical issues that need to be considered when implementing the remedy
- tax implications that may result from members changing scheme
- lifting the pause in the cost control mechanism.

Review of employer contributions and flexibility on exit payments

On 26 August 2020, MHCLG published a second [partial response](#) to the Local valuation cycle and the management of employer risk consultation that was issued in May 2019.

The response confirms that the LGPS 2013 Regulations will be amended to allow greater flexibility on employer exit payments and the ability to review employer contributions between valuations. The LGPS (Amendment) (No.2) Regulations 2020 provide for the changes and were laid on 27 August 2020. They come into effect from 23 September 2020.

A further response will be made by MHCLG in relation to the other proposals in the consultation (changes to the local fund valuation cycle, interim valuations and the status of further education, sixth form college and higher education corporations in England and Wales) in due course.

5. The Pensions Regulator (TPR)

TPR updates COVID-19 guides

The Pensions Regulator (TPR) has given [guidance](#) to help pension schemes and their employers cope with the impact of COVID-19. The guidance contains various easements, most of which were set to remain until 30 June 2020, such as TPR taking a more flexible approach to what they expect schemes to report. On 16 June 2020, TPR published updated versions, alongside a [press release](#) summarising the changes.

Adapted version of transfer warning letter for LGPS now available

TPR's guidance on [communicating to members](#) during the COVID-19 pandemic includes a request for pension managers to issue a transfer warning letter to members applying for a cash equivalent transfer value (CETV) quote from a defined 12 benefits (DB) to a defined

contributions (DC) scheme. The original letter, jointly prepared by TPR, the Financial Conduct Authority (FCA) and the Money and Pension Advice Service (MaPS), contains references to the Pension Protection Fund and is not suitable for use by the LGPS. TPR has now supplied a version of the transfer warning letter suitable for public sector schemes. TPR has asked that the letter is issued to all members requesting a CETV quote to a DC scheme for the foreseeable future.

TPR publishes Annual Report and Accounts 2019/20

On 16 July 2020, TPR [published its Annual Report and Accounts](#) for 2019/20.

2019/20 Scheme return

The Pensions Regulator (tPR) has advised that the warmup email for the 2019/20 scheme return will be issued in the next few weeks.

6. Recommendation

Board are asked to note the contents of this report.