

LGPC Bulletin 198 May 2020

Local Government Pensions Committee (LGPC)
Secretary, Lorraine Bennett

Foreword

This bulletin contains important updates for administering authorities, scheme employers and software suppliers. It also provides a general update for all Local Government Pension Scheme (LGPS) stakeholders.

This bulletin contains important articles on:

- [LGPS employer webinars](#)
- [LGPS employer FAQs](#)
- [TPR new guidance for avoiding pension scams](#)
- [Electronic communication of interfund documents](#)

which need action by certain stakeholders.

If you have any comments or articles for future bulletins, please contact query.lgps@local.gov.uk.

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Coronavirus (COVID-19)

COVID-19 governance survey

From 1 to 15 May 2020, the LGPS England & Wales Scheme Advisory Board (SAB) undertook a survey to understand how the governance of the LGPS has been affected by COVID-19. 83 administering authorities responded including authorities in Scotland and Northern Ireland. The SAB has published the [results of the COVID-19 governance survey](#) on the Board's website.

LGPS employer webinars

During May 2020, we delivered eight COVID-19 employer webinars across the UK. The webinars covered pension issues that have arisen due to the coronavirus pandemic. The feedback has been positive. You can watch recordings of the webinars using the links below:

- [England and Wales](#)
- [Scotland](#)
- [Northern Ireland](#)

Action for administering authorities

Please let employers know they can watch a recording of the dedicated COVID-19 employer webinars.

LGPS employer FAQs

We have created [a COVID-19 FAQ web page for LGPS employers](#). They have been created based on questions and feedback from our COVID-19 employer webinars. The FAQs are designed to help employers understand pension issues that may arise during the pandemic.

Action for administering authorities

Please bring to the attention of your employers the dedicated COVID-19 FAQ web page.

English life assurance scheme

The Government has introduced the NHS and Social Care Coronavirus Life Assurance Scheme (England) for eligible frontline health and social care workers during the pandemic. A payment of £60,000 will be made to the estate of eligible individuals who die from coronavirus contracted during their frontline essential work. The scheme specifies that payments are separate to, and regardless of other registered pension scheme benefits. A [summary note on the scheme](#) is available on

the COVID-19 page of the SAB website. Further information is also available from the [life assurance scheme page on the NHSBSA website](#).

Welsh life assurance scheme

On 27 April 2020, [Welsh Ministers published a written statement](#) confirming that they will establish a similar life assurance scheme to the English NHS and Social Care Coronavirus Life Assurance Scheme. Further details are awaited.

Scottish life assurance scheme

The Scottish Government has introduced a special temporary scheme called [the NHS Scotland Coronavirus Life Assurance Scheme \(Scotland\)](#). The Scheme may provide a lump sum and survivor benefits to families of frontline NHS staff who die as a result of COVID-19. The Scheme is designed for those who do not qualify for full death benefits under the NHS pension schemes. On 24 May 2020, it announced [plans to make a one-off payment of £60,000](#) where a social care worker dies without death in service cover in their contracted pension scheme. The Scottish Government is working with local government, social care providers and trade unions on the details.

Extension to furlough and next steps

The Chancellor has made [a further Treasury Direction in relation to the Coronavirus Job Retention Scheme](#). The Direction reflects the extension to the Scheme announced by the Chancellor on 17 April and clarifies some provisions within the original Direction.

On 29 May 2020, [the Government published the next steps to furlough](#):

- from 1 July 2020, employers can bring back employees part-time.
- the Scheme will be closed to new entrants from 30 June 2020.
- from August 2020, employers will no longer be able reclaim employer NI and pension contributions.
- from September 2020, employers must fund 10 per cent up to £312.50 (Government will fund 70 per cent up to £2,187.50).
- from October 2020, employers must fund 20 per cent up to £625 (Government will fund 60 per cent up to £1,875).
- the furlough scheme finishes at the end of October 2020.

PLSA local authority live

From 18 to 22 May 2020, the Pensions and Lifetime Savings Association (PLSA) hosted five webinars to support their Local Authority members through the pandemic. Content included the Regulator's response, employer health checks,

administration, sustainability and launch of the Scheme Advisory Board annual report. [The Local Authority Live page of the PLSA website](#) contains recordings of each session, slides and related links.

PMI industry guidance on COVID-19 issues

The Pensions Management Institute (PMI) has published an industry guide discussing the challenges brought about by the pandemic as well as the emerging opportunities in the pensions industry. [The PMI industry guide can be downloaded from the PMI website.](#)

LGPS England & Wales Scheme Advisory Board (SAB)

Summary note of Board meeting held on 5 May 2020

[SAB virtually met on 5 May 2020](#). Key highlights include:

- discussions with MHCLG continue on the McCloud remedy. An LGPS consultation is expected late June 2020.
- an outline of the measures that have been taken to assist the scheme during COVID-19 together with the impact on SAB projects and workloads, were noted.
- various COVID-19 life assurance schemes have been launched across the UK. Most of the schemes include local government social care staff working on the frontline. Representations have been made to MHCLG about the possibility of extending the scheme to other frontline local government staff.
- the next virtual SAB meeting will be held on 10 July 2020. Meanwhile, virtual meetings with the Chairs of both the Board and investment and cost management committees will take place to deal with any urgent business.

Supreme Court Judgement on LGPS boycotts

In June 2017 [the High Court published its judgment](#) in a judicial review case concerning the statutory guidance issued to accompany the LGPS (Management and Investment of Funds) Regulations 2016. The case was brought by Palestine Solidarity Campaign Ltd and an LGPS member. It ruled that the section within the guidance stating that administering authorities should not pursue policies that are contrary to UK foreign policy or UK defence policy was unlawful.

The statutory guidance was reissued in 2017 with the relevant statements removed; however, MHCLG appealed the High Court decision. In June 2018, [the Court of Appeal disagreed with the original ruling by the High Court](#). This allowed the case to move to the Supreme Court. Meanwhile, [the statutory guidance remained published](#) with the relevant statements removed.

In April 2020 [the Supreme Court ruled](#) that the legislation does not permit the Secretary of State to impose the government's view on foreign and defence policy, on LGPS administering authorities.

[SAB have issued a statement on its website](#) and will publish a summary of the full judgment in due course.

2019 LGPS annual scheme report

On 22 May 2020, Councilor Phillips (Chair of SAB) [launched the 2019 LGPS England and Wales annual scheme report](#). Highlights from the report include:

- total membership increased from 5.8 million in 2018 to 5.9 million in 2019, a rise of 0.6 percent.
- total assets increased to £291 billion, a change of 5.9 percent.
- local authority returns on investment over 2018/2019 was 6.6 percent. This was reflective of the market conditions during the year and set against the UK Return of 6.4 percent.
- the Scheme maintained a positive cash-flow position overall, including investment income.
- over 1.7 million pensioners were paid over the year.

McCloud subgroup meetings

We mentioned in [bulletin 197](#) that, given current restrictions, the McCloud implementation group has formed three subgroups that will meet virtually.

Since last month, a further two subgroup meetings have been held. The first software subgroup and the second data collection subgroup.

Software: the first meeting was held on 19 May 2020. The sub-group agreed that:

- software suppliers would produce a process map for implementing the changes, including timings for each stage.
- following the publication of the draft regulations the LGA will arrange a meeting with GAD, MHCLG and the software suppliers to discuss the proposed changes.

Data collection: the second meeting was held on 21 May 2020. The group discussed a draft data collection template and notes. The subgroup agreed:

- that the draft data collection template and notes would be updated to reflect the comments of the group. These will be reviewed before a discussion with employers and payroll software providers starts.

- to progress the legal advice on GDPR before the next meeting.
-

LGPS England & Wales

The Local Government Pension Scheme (Northumberland and Tyne and Wear Pension Fund Merger) Regulations 2020

On 20 March 2020, MHCLG opened a consultation on the proposed merger of the Northumberland and Tyne and Wear pension funds. The consultation closed on 1 May 2020. The [Government published its full response on 14 May 2020](#) confirming that it has decided to proceed with the merger.

[The Local Government Pension Scheme \(Northumberland and Tyne and Wear Pension Fund Merger\) Regulations 2020](#) were laid before Parliament on 14 May 2020, effective from 3 June 2020. These regulations do not amend the LGPS Regulations 2013, but set out modifications to how the regulations apply following the merger. We have added editor's notes to the [Timeline regulations](#) where the modifications apply.

Actuarial guidance notes

Over the past six months we have reviewed revised draft actuarial guidance notes, covering a range of topics. A lot of the revisions are cosmetic though some do involve calculation changes. It was intended that the revised guidance would be implemented around April 2020. However, MHCLG have confirmed that they do not intend to publish any revised actuarial guidance notes until the autumn.

LGPS Scotland

2020 triennial valuations

On 13 May 2020, [the Scottish Public Pensions Agency \(SPPA\) wrote to Scottish administering authorities](#), setting out its position on two key aspects for administering authorities to consider whilst undertaking the 2020 triennial valuations. They cover age discrimination in public service pension schemes and employer cost cap considerations.

Flexible retirement guidance

Following a factor review by GAD, on 14 May 2020 SPPA published updated flexible retirement guidance dated 23 April 2020. The calculation methodology is unchanged, though the examples are refreshed to bring them up to date. The new guidance is effective from 14 May 2020 and replaces that published on 26 February 2015.

The updated guidance can be found in the [Actuarial guidance page](#) of [the website for LGPS employers and pension funds in Scotland](#).

HMRC

Employer NI on termination payments

After a delay, [the rules on termination payments changed on 6 April 2020](#) so that employer's class 1A National Insurance Contributions (NICs) are now payable on payments of £30,000 or over. The rate of those contributions is 13.8 per cent. It remains the case that employee NICs are not payable on termination payments, and income tax remains due on payments of £30,000 and over.

Pension schemes newsletter 120

HMRC has published [Pension Schemes Newsletter 120](#), which includes information on temporary changes to pension processes as a result of COVID-19 and the suspension of the process for applying for a National Insurance number.

Countdown Bulletin 53

On 28 May 2020, [HMRC published countdown bulletin 53](#). It confirms that administrators will be issued with their final data cuts by the end of July 2020.

Upon receipt of the final data cuts HMRC advise administering authorities to check the GMP amounts provided, against their own records. Where the amounts cannot be agreed, these should be compared against the online GMP checker service. If they still do not agree the values, queries can be submitted to HMRC at a life event using the template in the Live Schemes Shared Workspace eRoom.

TPR

New Director of Auto Enrolment

On 4 May 2020, [the Pensions Regulator \(TPR\) confirmed the appointment of Mel Charles as its new director of auto enrolment](#). Mel will be responsible for leading TPR's work to ensure the continued long-term success of automatic enrolment.

New powers to obtain communications data

On 21 April 2020, the Government laid before Parliament [the draft Investigatory Powers \(Communications Data\) \(Relevant Public Authorities and Designated Senior Officers\) Regulations 2020](#). These regulations potentially amend [the Investigatory Powers Act 2016](#). The Act provides a framework to govern the use and oversight of investigatory powers by law enforcement and the security and intelligence agencies.

Schedule 4 of the Investigatory Powers Act 2016 sets out the public bodies that can obtain communications data. The regulations propose to add new public bodies to schedule 4, including the Pensions Regulator (TPR).

TPR is responsible for enforcement of employer automatic enrolment duties, which have been gradually rolled out to over one million businesses since 2012. This has dramatically increased the scale of TPR enforcement activity and highlighted the need for effective sanctions, including prosecution. In parallel with this, TPR has adapted its approach to its other areas of responsibility, putting more emphasis on prosecution as a means of securing compliance and punishing wrongdoing. Communications data powers will be highly valuable in investigations as digital footprints become increasingly significant.

New guidance on avoiding pension scams

[TPR has updated its guidance for avoiding pension scams](#). The guidance confirms that they cannot prevent a member pursuing their statutory right to transfer and cannot permit administering authorities to prevent a transfer to which a statutory right applies. However, where administering authorities show evidence that the transfer *doesn't meet legal requirements*, TPR will consider this when deciding whether to act due to the non-payment of a transfer. The wording reflects the legal position on statutory transfers.

TPR has also expanded its commentary on applications for an extension of time to complete a transfer, and notes that suspicion of scam activity is not necessarily enough for an extension to be granted. The request must identify one of the specific circumstances under which TPR is permitted to grant an extension. Circumstances where an extension may be granted include when the:

- member has not taken all steps they need for the transfer to take place.
- administering authority has not been provided with the information they reasonably require to carry out the member's request.

Action for administering authorities

Administering authorities should consider whether they need to amend their procedures.

Other news and updates

Electronic communication of interfund documents

[TPR's COVID-19 guidance for trustees and public service pension schemes](#) states that pension schemes 'should allow electronic signatures and documents and encourage other third-party providers to do the same'.

We understand some administering authorities are continuing to send interfund documentation by post which is increasing the need for staff to travel into the office. We recommend that all interfund documentation is sent electronically via secure email in line with the approach recommended by TPR. The Government has published [information on securing government email](#) which you may find useful.

Action for administering authorities

Administering authorities should consider whether they need to amend their procedures.

Wider Landscape

FBU considering pension compensation claims

The Fire Brigades Union (FBU) is looking at potential compensation claims for its members in public sector pension schemes who were victims of age discrimination.

In an update on its website, FBU stated that these claims would aim to "compensate members for the financial hardship and also distress, upset and anger – described by lawyers as 'injury to feelings' – that may have been caused" during this process.

[More information is available on the FBU website.](#)

Training

Our face to face training programme has been put on hold due to the pandemic. We are currently working on an online training programme and will provide updates in future bulletins.

Legislation

Statutory Instruments

[The Local Government Pension Scheme \(Northumberland and Tyne and Wear Pension Fund Merger\) Regulations 2020](#) [SI 2020/502]

Northern Ireland Statutory Rules

[The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2020 \[NR 2020/77\]](#)

Useful links

[LGA Pensions page](#)

[LGPS member website \(England and Wales\)](#)

[LGPS member website \(Scotland 2015\)](#)

[LGPS Advisory Board website \(England and Wales\)](#)

[LGPS Advisory Board website \(Scotland\)](#)

[LGPS Regulations and Guidance website \(England and Wales\)](#)

[LGPS Regulations and Guidance website \(Scotland\)](#)

[Public Sector Transfer Club](#)

[Recognised Overseas Pension Schemes](#) that have told HMRC that they meet the conditions to be a ROPS and have asked to be included on the list.

LGPS pensions section contact details

If you have a technical query, please email query.lgps@local.gov.uk and one of the team's LGPS pension advisers will get back to you.

Jeff Houston (Head of Pensions)

Telephone: 07786 681936

Email: jeff.houston@local.gov.uk

Lorraine Bennett (Senior Pensions Adviser – LGPC Secretariat)

Telephone: 07766 252847

Email: lorraine.bennett@local.gov.uk

Jayne Wiberg (Pensions Adviser – LGPC Secretariat)

Telephone: 07979 715825

Email: jayne.wiberg@local.gov.uk

Rachel Abbey (Pensions Adviser – LGPC Secretariat)

Telephone: 07827 307003 Email: rachel.abbey@local.gov.uk

Steven Moseley (Pensions Adviser – LGPC Secretariat)

Telephone: 07780 227059

Email: steven.moseley@local.gov.uk

Karl White (Pensions Adviser (Training) – LGPC Secretariat)

Telephone: 07464 652886

Email: karl.white@local.gov.uk

Bob Holloway (Pensions Secretary – LGPS Scheme Advisory Board (E&W))

Telephone: 07919 562847

Email: robert.holloway@local.gov.uk

Liam Robson (Pensions Analyst – LGPS Scheme Advisory Board (E&W))

Telephone: 0207 664 3328

Email: liam.robson@local.gov.uk

Elaine English (LGPS Executive Officer)

Telephone: 07909 988968

Email: elaine.english@local.gov.uk

Further information

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