

# **JOHN RAISIN FINANCIAL SERVICES LIMITED**

## **The Nottinghamshire Local Pension Board**

### **LGPS Update**

#### **A paper by the Advisor to the Pension Board** **June 2023**

##### **Introduction**

This paper informs and updates the Pension Board in respect of a number of important issues relating to the LGPS at a national level. The issues covered in this paper are:

1. Changes to the Scheme Advisory Board (SAB) Cost Management process.
2. Changes to Pensions Taxation.
3. Further Consultation on “McCloud” (Age Discrimination in the LGPS).
4. Climate Change Reporting.
5. Investment Pooling.
6. Good Governance in the LGPS project.
7. The Pensions Regulator: New General Code.

It is hoped this paper will be informative to all Members of the Pension Board and in particular to those who have joined the Board more recently.

##### **1. Changes to the Scheme Advisory Board (SAB) Cost Management process**

The March 2023 LGPS Update (which was finalised on 6 March 2023) included a briefing on the Cost Management process introduced into the LGPS as a consequence of the Public Service Pensions Act 2013. This included reference to the two Cost Management mechanisms applicable to the LGPS – the employer cost cap (ECC) process as operated by HM Treasury and the future service cost (FSC) as operated by the LGPS Scheme Advisory Board (SAB).

The March Update also informed the Board that on 30 January 2023 DLUHC launched a Consultation (which closed on 24 March 2023) entitled “**Local Government Pension Scheme: Changes to the Scheme Advisory Board cost management process**” The Consultation aimed to update the SAB process in light of the 2021 changes to the HM Treasury cost control process and to provide the SAB with greater flexibility in how it responds to any cost variations. The SAB submitted a response to this Consultation in March 2023 which was generally supportive of the Government’s proposals.

On 11 May 2023 Government published its response to the Consultation on changes to the SAB’s cost management process and also issued The Local Government Pension Scheme (Amendment) (No. 2) Regulations 2023 which come into force on 1 June 2023. The changes introduced by the new Regulations better align the SAB’s cost management process with HM Treasury revised cost control process of 2021. They also give the Scheme Advisory Board greater flexibility in the making of recommendations to the Secretary of State.

## **2. Changes to Pensions Taxation**

In his Budget of 15 March 2023, the Chancellor of the Exchequer announced significant changes to the pensions taxation regime applicable to both private sector and public sector pensions. The Annual Allowance (the maximum amount of pensions savings an individual can make each year before incurring a tax charge) is to increase from £40,000 to £60,000 from 6 April 2023, with individuals continuing to be able to carry forward unused Annual Allowances from the three previous tax years. The Chancellor also announced his intention to abolish the Lifetime Allowance which was £1,073,100 at the time of the Spring 2023 Budget.

Most members of the LGPS have never earned enough to be within the scope of either the Annual or Lifetime Allowance. However, increasing numbers of senior managers have become subject to these taxation provisions in recent years and this trend was set to continue and increase as the Government appeared to be likely to freeze these allowances over the long term. The increase in the Annual Allowance and the abolition of the Lifetime Allowance means that almost all members of the LGPS will now be exempt from the pension’s taxation regime. These changes will also simplify LGPS benefit calculations/entitlements.

## **3. Further Consultation on “McCloud” (Age discrimination in the LGPS)**

The Public Service Pensions Act 2013 which reformed all the major public service pension schemes from 2014 or 2015 (fundamentally by replacing final salary with career average salary as the basis for the calculation of benefits) included provision for protections for older members designed to ensure they would not be worse off as a result of the introduction of the new schemes. In 2018 the Court of Appeal ruled that in the case of the Judges’ and Firefighters Pension Schemes this was (age) discriminatory against younger members. In July 2019, the Government confirmed that there would be changes to all public service pension schemes, including the LGPS, to remove this age discrimination. This whole issue is now commonly referred to as “McCloud.”

On 16 July 2020, the then MHCLG issued a Consultation called “**Amendments to the statutory underpin**” to address the age discrimination identified in the LGPS. On 6 April 2023 the DLUHC issued its response to the 2020 Consultation detailing how it will proceed. On 30 May 2023 DLUHC issued a further Consultation “**‘McCloud’ remedy in the LGPS – supplementary issues and scheme regulations**” together with draft Regulations regarding the “McCloud” remedy. This Consultation closes on 30 June 2023.

In this latest Consultation the Government is seeking views where in its 6 April 2023 response it stated it would be reconsulting to obtain further views, and also on issues which were not addressed in the 2020 Consultation. At the same time the Government is seeking feedback on draft Regulations which would implement the (entire) “McCloud” remedy. It is intended these Regulations come into force on 1 October 2023. Assuming that the Regulations come into effect from October 2023 LGPS Pension Funds will review qualifying members pensions to determine any effects on individuals. It should however be pointed out that most individual members will not experience any increase in the benefits they ultimately receive as a result of “McCloud” – this is because the pension they build up in the present career average scheme will be higher than what they would have built up in the previous final salary scheme.

#### **4. Climate Change reporting**

In the March 2023 LGPS Update it was reported that it was anticipated that Regulations to introduce Climate Change reporting into the LGPS would be issued retrospectively, after 1 April 2023, but would apply from 1 April 2023. No such Regulations were, however, issued in April 2023.

On 23 May 2023 the Scheme Advisory Board stated on its website that the implementation of Climate Risk reporting in the LGPS – “*is now expected to commence from 1 April 2024, with first reports due in late 2025.*”

#### **5. Investment Pooling**

A Consultation on the further development of Investment (Asset) Pooling has been expected since 2019. On 9 December 2022 the Chancellor of the Exchequer Rt Hon Jeremy Hunt MP stated that the Government “*Will, in early 2023, consult on new guidance to the Local Government Pension Scheme (LGPS) in England and Wales on asset pooling.*”

On 15 March 2023 the Chancellor of the Exchequer announced his Spring Budget 2023. The **SPRING BUDGET 2023** red book which sets out in full the Chancellor of the Exchequer’s Spring Budget 2023 included the following:

- **4.116 Local Government Pension Scheme investment** – The government is challenging the Local Government Pension Scheme in England and Wales to move further and faster on consolidating assets – a forthcoming consultation will propose LGPS funds transfer all listed assets into their pools by March 2025, and set direction for the future. This may include moving towards a smaller number of pools in excess of £50 billion

to optimise benefits of scale. While pooling has delivered substantial benefits so far, progress needs to accelerate to deliver, and the government stands ready to take further action if needed. The Government will also consult on requiring LGPS funds to consider investment opportunities in illiquid assets such as venture and growth capital, thereby seeking to unlock some of the £364 billion of LGPS assets into long-term productive assets.

As at the date of finalising this LGPS Update (6 June 2023) no Consultation on the future of Investment Pooling has been issued by the DLUHC. If anything is issued this year it will (almost certainly) just be a Consultation – not actual new Regulations/Statutory Guidance. This is because a major Consultation normally lasts for three months, and the Government then considers all the responses received, and issue its reply to these before then issuing the consequent Regulations and/or Statutory Guidance.

Any Consultation on the further development of Investment Pooling will doubtlessly result in many, and varied, responses from not only individual LGPS Funds but also a range of other LGPS stakeholders. Given the response to the (subsequently withdrawn) 2019 Investment Pooling Consultation which included suggestions of legal challenge, and the judgement of the Supreme Court in a 2020 case concerned with LGPS Regulations, the DLUHC will doubtlessly very carefully consider not only the proposals in any Consultation it issues, but also how it responds to responses to the Consultation, and the nature of the final Regulations and/or Statutory Guidance issued. Therefore, any new Investment Pooling regime is unlikely to be finalised before 2024.

## **6. Good Governance in the LGPS project**

The Good Governance in the LGPS project was initiated by the SAB in 2018 and the Board has received regular updates on progress, most recently at its meeting held on 29 September 2022. The project sought to fundamentally enhance and strengthen the governance of the individual LGPS Funds in England and Wales. The project took place over three phases and included extensive stakeholder involvement. In February 2021 the SAB received the final Phase III report, considered, and approved an Action Plan based on the final report. The Action Plan was then forwarded to the Government. A Consultation on changes to the LGPS Regulations and new Statutory Guidance is expected from DLUHC to require the implementation of a strengthened approach to LGPS governance as proposed by the Good Governance in the LGPS project. This Consultation has however been delayed along with others, such as the Investment Pooling Consultation.

Notwithstanding the delay in the expected LGPS Governance Consultation the Phase III Good Governance Report and SAB Action Plan set out a range of clear improvements to LGPS Governance some of which can clearly be progressed by individual LGPS Funds without the need for any further action from either the DLUHC or SAB.

The Recommendations in the SAB Action Plan which a LGPS Fund could implement immediately include **A1,B1,C1,D1,D3,E2,E3,E4**. For some of these a further revision may be required once the LGPS Regulations/Statutory Guidance are amended/issued to require their mandatory implementation. However positive action in respect of each of the Recommendations above would represent good practice by an individual LGPS Fund.

A significant number of LGPS Funds have already taken reports to their Pension Committee (or equivalent) regarding the proposals in the SAB Action Plan and are taking positive action to review their present governance arrangements and progress implementation of the recommendations of the Scheme Advisory Board's (SAB) Good Governance Review. This clearly represents good practice.

## **7. The Pension Regulator: New General Code**

By virtue of the Public Service Pensions Act (PSPA) 2013 the Pensions Regulator (TPR) has, since April 2015, had an oversight role in relation to the Administration of Benefits and (to a lesser extent) Governance of public service pension schemes including the LGPS. The remit of TPR does not extend to LGPS investment issues which remain solely the responsibility of DLUHC.

As a result of the extension of its remit to public service pension schemes TPR issued in 2015 its Code of Practice No14 "Governance and Administration of Public Service Pension Schemes." This is one of the Codes of Practice issued by TPR with the others covering various issues as they relate to private sector pension schemes/arrangements. Since 2021 TPR has been working towards issuing a new General Code (formerly referred to as the Single Code of Practice) to consolidate several of the existing Codes of Practice, including Code No14, into one Code. The new General Code will also contain revisions of requirements to those contained in the existing Codes.

While not all of the TPR new General Code will be applicable to the LGPS its introduction will require that all LGPS Funds assess, implement and demonstrate compliance with the applicable parts of the new Code. The finalised version of the new General Code is expected to be issued later this year.

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6 June 2023

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