

# Local Government Newsletter

## July 2019

*Hello and welcome to the latest edition of our Newsletter. This month's topics include updates on McCloud and the recent Supreme Court announcement and Written Ministerial Statement from the Chief Secretary to Treasury. Several updates from the Pensions Regulator (TPR) are also noted below including the outcome of the Public Service Governance & Administration Survey 2018, a recently published consultation on the Future of Trusteeship and planned changes towards a single TPR code of practice. Hope you enjoy reading this month's edition and have a great summer.*



Mary

## People News

### New joiners

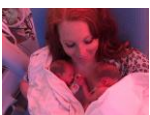


We're delighted to welcome a number of new joiners to the Public Sector Team.

Firstly, Ben Challinor joined as a Benefits and Governance Consultant on 1 July and we warmly welcome him to the team from the Shropshire Pension Fund.

In addition, we welcome Mandy Davies who will be working with the Public Sector Team. Mandy has worked for Aon in the administration practice for a number of years. Also, we are delighted that Jamie Greenwood will be with us for the next 12 months on an Industrial Placement, and Katie Lovell & Ella Mackintosh will be with us until 23 August as summer interns.

### Laura's babies



We are delighted to inform you that on Saturday 20 July, a little earlier than expected, Laura and her husband Will welcomed two beautiful

babies. Abigail Audrey Hazel Caudwell was born at 6.22pm weighing 3lb and 15oz, swiftly followed by Jack Felix Michael Caudwell at 6.24pm, weighing 3lb and 7oz. All are doing well, with Abigail and Jack being expertly looked after by the staff in the neonatal intensive care unit at St Michael's Hospital in Bristol. We wish Laura, Will and the babies all the best.

## Talking points

### Supreme Court - McCloud

The Supreme Court denied the Government's request for appeal in the McCloud case on 27 June, this was followed by a [written statement](#) from the Chief Secretary to the Treasury on 15 July which set out the government's expectation that the McCloud remedy will apply to all public service pension schemes with transitional protections in place. A [statement](#) was also added to the England and Wales LGPS Scheme Advisory Board (SAB) website.

At a recent actuaries' meeting with GAD, MHCLG and SAB, there was an expectation that this was not going to be resolved soon (years rather than months) and Jeff Houston indicated that SAB guidance will not be reviewed or updated. At the same meeting actuarial firms agreed that a consistent approach to commentary on cost pressures from McCloud/ Cost Cap implications would be useful for valuation reports.

Our view is that McCloud/Cost Cap implications should be considered when setting employer contributions, however making accurate allowance is likely to be challenging without more details of the implications for the LGPS. We expect this to be an area of ongoing engagement and discussion with administering authorities as national discussions progress.

## Industry developments

### GAD Section 13 review and data collection

GAD have now finalised their data collection requirements that they request in order to carry out their section 13 review of the LGPS Funds. This has been through several iterations and discussion with representatives of the firms of fund actuaries, and while there are additional items from those requested 3 years ago, we have tried to limit these. Administering Authorities should expect to receive confirmation shortly of the spreadsheet that needs to be filled in and will be asked to request this information from their actuary. The deadline for provision of this information (including the funding position on the standardised basis) is 30 April 2020, which is welcome as it gives more time to carry out the necessary calculations than at the 2016 valuation. GAD will also be requesting membership data directly from all funds, and this is likely to be required in September 2019.

In addition, and in response to one of the recommendations in the section 13 report following the 2016 valuation, there will be a “dashboard” included in the formal valuation reports, probably in the form of an additional appendix. This will include key information from the valuation and the results on the standardised basis and is intended to help lay readers compare funds and funding strategies. The information to be included in the dashboard was proposed by SAB and has been refined following discussions between GAD, SAB and the firms of fund actuaries.

### SAB Briefing note – Recent CMA Order 2019

In last month's newsletter we referred to the recent Competition and Markets Authority (CMA) order – the [Investment Consultancy and Fiduciary Management Market Investigation Order 2019](#). Earlier this month the LGPS SAB in England and Wales issued a [briefing note](#) to raise awareness of the Order. It refers to the potentially "significant consequences" for LGPS pools where their pool companies are caught by the definition of Fiduciary Management service providers and they cannot use the exclusion for pension scheme owned companies. However, on 29 July, the Department of Work and Pensions (DWP) published a [consultation](#) on regulations to bring the recent CMA Order into legislation. That consultation, which

runs to 2 September, states in Chapter 2 that the scope of the draft regulations does not include the LGPS. A [revised briefing note](#) from the SAB was issued on 30 July. That note also states that "It is understood that MHCLG may come forward with some provisions for LGPS authorities but that these would only include the obligations under Part 7 (Investment Consultancy services)".

### Survivor Benefits

Earlier this month Guy Opperman, Minister for Pensions and Financial Inclusion issued a ministerial [written statement](#). It confirms that, following a review of survivor benefits required under the Marriage (Same Sex Couples) Act 2013, no changes are to be made to legislative provisions. It notes that, following the decision in the case of Walker v Innospec, it is now clear that same-sex civil partners or spouses are entitled to survivor benefits in the same way as opposite sex spouses, and outlines the steps being taken to reflect the judgment for public sector schemes.

Also, in July the LGPC Secretariat issued a new LGPS Survivor Membership Technical Guide. It incorporates recent changes to the provision for survivor benefits including the LGPS (Miscellaneous Amendment) Regulations 2018 [SI2018/1366] which addresses the Walker v Innospec case. The guide is available on [www.lgpsregs.org](http://www.lgpsregs.org) (see the [guides and sample documents](#) section).

### New late retirement guidance and factors

On 1 July MHCLG issued (i) [revised late retirement guidance](#), (ii) and updated [factor spreadsheet](#) and (iii) a [covering letter](#) for England and Wales. The factors take effect from 1 September 2019. All are available on LGPS Regulations website.

### New Scheme Administrator Guide

The LGPC Secretariat issued a new technical guide this month, 'Scheme administrator guide - When and how to apply supplementary pensions increase to a lump sum'. It sets out their understanding of how supplementary pension increases are applied to LGPS lump sums, and is available on the [LGPS Regulations website](#).

### SAB – Meeting Note 8 July

The latest LGPS England and Wales SAB meeting took place on 8 July. The meeting covered areas including various consultations, McCloud, the Good Governance project, pensions tax and the SAB levy

and a note summarising the activity the meeting is available on the [Board's website](#).

## Court of Appeal Case – Woman wins right to late partner's military pension

It has been [reported](#) that a woman has won the right to her late partner's military pension. In 2015 the High Court ruled that, although the RAF pension scheme allows a survivor benefit for unmarried partners of officers, Jane Langford was not entitled to such a pension because she had not formally divorced her previous husband. However, the Court of Appeal held that this “broad exclusionary rule”, breached Ms Langford's human rights.

## TPR Public Service Governance & Administration Survey 2018

In July the Pensions Regulator (TPR) published the [results](#) of its public service governance and administration survey 2018, this was accompanied with a [short commentary](#). TPR flagged that 74% of public service schemes had six of their key processes in place. This is an improvement on 2017 results, but they indicated disappointment that not all schemes had the six measures they assess in place. In particular, for the LGPS, they have indicated that Fund's "could do more to facilitate the collection of data". They went on to say that "only half of Local Government schemes said that all their employers submitted data electronically and just two-fifths said that all their employers submitted their data monthly". TPR indicate that the default for all schemes should be monthly electronic data submission, going on to recommend that all schemes takes steps to put this in place. TPR also indicated they are “troubled by the 10% of schemes (15% of Local Government schemes) that did not report that all the annual benefit statements they sent out in 2018 contained all the data required by regulations”.

## Consultation on Future of Trusteeship

TPR [issued](#) a [consultation](#) on 2 July entitled "Future of Trusteeship and Governance" with responses required by 24 September. It includes proposals around how to reduce the number of poorly governed pension schemes, including by promoting consolidation. The consultation, which also refers to Public Sector Schemes also considers how the trustee model can be made more effective, asking about how to improve and evidence trustee knowledge and understanding, how to improve

diversity on boards, the role of accreditation and whether sole trustees can govern effectively.

## TPR proposes a single combined code of practice

TPR released a [statement](#) indicating that it intends to make changes to its existing Codes of Practice. Over the next year it will review the codes to reflect the IORP II Governance amendments – and states that this is expected to involve combining the content of the 15 current codes into a single, shorter code. That will include COP No. 14 for Public Service Pension Schemes. TPR is planning to launch a formal consultation later in the year, but before that, it will seek feedback on the proposed design and content. Trustees will need to be able to demonstrate that they have an effective system of governance within 12 months of publication of the updated code.

## NHS Pension Scheme Consultation

On 22 July the Department of Health and Social Care issued a consultation entitled '[NHS Pension Scheme: proposed flexibility](#)'. The consultation document sets out the possibility of introducing a 50:50 option (similar to that which operates in the LGPS, although this was originally intended to help lower paid members participate in that scheme) which, by introducing 50% pension accrual in the NHSPS, would allow clinicians to slow down their accrual of benefits, assisting those who may be impacted by the current pension taxation regime. The consultation also refers to the need for greater flexibility and as such sets out options to consider, including using existing scheme provisions around purchasing additional pension by lump sum to effectively tailor accrual levels to those desired by individual clinicians. Alongside this, respondents are also therefore being asked whether the current limits in place for purchasing additional pension should also be reconsidered.

Views are also being sought on whether the NHSPS should adopt an alternative arrangement for the operation of its scheme pays facility (i.e. adopting the ‘debit’ approach that other Public Service Schemes, including the LGPS, use), which hopefully may be more transparent for members, and on how the NHSPS can support staff in understanding the issues arising from pensions taxation and minimise the administrative burden on clinicians. Closing date for responses is 14 October 2019.

## PASA Good Practice Guidance for DB Transfers

PASA has [launched](#) best practice [guidance](#) for DB transfers which is supported by both the Minister for Pensions and Financial Inclusion, Guy Opperman MP, and TPR's Executive Director of Regulatory Policy, David Fairs. The guidance includes a standardised data template for [scheme](#) and [member](#) information, and TPR highlights this template in particular as a resource that will make the transfer process more efficient. The guidance released so far, for 'standard cases', sets out the maximum period for responding to a request for a CETV of 7 working days – or 8 working days if the case needs to be referred to the scheme actuary. The maximum period for payment following receipt of application forms is 9 working days. Further guidance, on non-standard cases, is expected later in 2019.

## What we've been talking to our clients about

### McCloud

We continue to consider the implications of the latest information relating to the McCloud judgement both for the 2019 valuation as well as the accountancy implications.

The elements of the unknown regarding the solution to the McCloud judgement lead to more questions than answers. For example, if a final salary underpin were to be required for all members then would Funds require data on part time hours for post 2014 service (at least for those joining before 1 April 2014)? Something for us all to consider and we suggest Administering Authorities start planning for potentially unexpected additional data requirements depending on the ultimate outcome.

## Contact Information

### Mary Lambe

Senior Governance and Benefits Consultant  
+44 (0)1727 888236  
+44 (0) 7771 678745  
[mary.lambe@aon.com](mailto:mary.lambe@aon.com)

### Alison Murray

Head of Public Sector Actuarial  
+44 (0)117 900 4219  
[alison.murray@aon.com](mailto:alison.murray@aon.com)

### Karen McWilliam

Head of Public Sector Governance and Benefits Consultancy  
+44 (0)771 101 6707  
[karen.mcwilliam@aon.com](mailto:karen.mcwilliam@aon.com)

## About Aon

[Aon plc](#) (NYSE:AON) is a leading global professional services firm providing a broad range of risk, retirement and health solutions. Our 50,000 colleagues in 120 countries empower results for clients by using proprietary data and analytics to deliver insights that reduce volatility and improve performance. Our 50,000 colleagues in 120 countries empower results for clients by using proprietary data and analytics to deliver insights that reduce volatility and improve performance.

Aon Hewitt Limited

Registered in England & Wales No. 4396810

Registered office: The Aon Centre | The Leadenhall Building | 122 Leadenhall Street | London | EC3V 4AN

Copyright © 2019 Aon Hewitt Limited. All rights reserved.

Aon Hewitt Limited is authorised and regulated by the Financial Conduct Authority.

Nothing in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. It should not be taken as financial advice and action should not be taken as a result of this document alone. Consultants will be pleased to answer questions on its contents but cannot give individual financial advice. Individuals are recommended to seek independent financial advice in respect of their own personal circumstance.