

Pensions Committee

2.30 p.m., Wednesday, 25 March 2015

Reform of the LGPS in Scotland and Regulatory Update (excluding Governance)

Item number	5.5
Report number	
Executive/routine	
Wards	All

Executive summary

Good progress continues to be made towards implementation of a new Local Government Pension Scheme (LGPS) in Scotland from 1 April 2015.

Coverage of the LGPS in England and Wales and other pensions regulatory matters is included for reference.

A review of implementation, together with periodic regulatory updates, will be provided to future Pensions Committees.

The Administering Authority (Discretions) Policy Statement has been updated to include discretions required under the new scheme and is attached for approval by Committee.

Links

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Report

Reform of the LGPS in Scotland and Regulatory Update (excluding Governance)

Recommendations

The Pensions Committee is requested to:

- 1.1 Note the report;
- 1.2 Approve the Administering Authority (Discretions) Policy Statement, as shown at Appendix 1 and delegate amendment of section 36 of the policy (transfers) to the Director of Corporate Governance once the national position is clear.

Background

- 2.1 This report is the latest in a series of regular updates on public service pension reform and specifically the implications of fundamental change to the design and governance of the Local Government Pension Scheme in Scotland.
- 2.2 A separate report on Governance matters is provided elsewhere on the agenda.

Main report

- 3.1 With the new LGPS in Scotland coming into effect on 1 April 2015, recent efforts have focussed on implementation and communication.

LGPS 2015 - HR, Payroll and Administration Guidance

- 3.2 During January 2015 the following documents were made available on www.lgpsregs.org for LGPS Pension Funds and employers in Scotland:
 - HR Guide - version 1.1
 - Payroll Guide - version 1.3
 - Administration Guides
 - "85 year rule" –version 1.0
 - Aggregation – version 1.1
 - Annual Benefit Statements - version 1.1
 - Discretion List - version 1.0
 - Discretion Policy - version 1.0
 - Survivor Benefits - version 1.0
 - Transfers - version 1.0
 - Trivial commutation - version 1.2

- Underpin - version 1.1
- Practitioners' Guide - version 1.4

3.3 The Scottish Public Pensions Agency (SPPA) has also circulated draft guidance notes for comment, prior to final publication, covering the following specific points:

- Lifetime allowance and additional cash commutation
- Limit on total amount of benefits – Lifetime Allowance
- Application of a pension debit for divorced members
- Application of a pension credit to the former spouse or civil partner of the member
- Annual Allowance charges: calculation of Scheme Pays offset
- Use of accumulated AVCs to provide additional pension under the Scheme.

“85 year rule” – additional flexibility

3.4 The “Rule of 85”, as known, perpetuates historic protection for LGPS members who joined the scheme prior to 1 December 2006. Where a member’s age and years of service total more than 85, and the member shall attain age 60 prior to 1 April 2020, then the member can retire from age 60 (or age 55 with employer’s permission) without actuarial reduction to benefits. Presently, this means that although a member may satisfy the “Rule of 85” criteria, the member is only allowed to retire early (prior to age 60) should the employer be willing to meet the associated strain costs. The LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 have introduced an option available to the employer to elect to “switch off” this protection.

The member would then be able to retire early, in acceptance of the associated reduction to benefits. Clarification from the Scottish Public Pensions Agency (SPPA) on the application of a “part waiver” of the actuarial reduction is being sought.

LGPS 2015 – Communications

3.5 Work on member and employer communications material continues to be progressed by the SLOGPAG Communications Sub-Group. All information currently approved by SLOGPAG for public release is available though the website www.scotlgps2015.org. The Fund has helped to develop the Scotland wide-communications resources including the following:

- Video for members
- Modeller showing estimate of benefits from April 2015 onwards
- Presentation for employer and member events
- Five in-depth topic briefings – available on the website
- Series of e-newsletters linked to topic briefings to be issued over the period to the change (newsletters can also be for use on notice boards), including coverage of the complicated issue of pensionable pay and other protections
- Poster highlighting the changes, what is staying the same and also protections.
- Briefing and web page for the councillors’ scheme.

Lothian Pension Fund specific communications

- 3.6 The Fund continues to use the Scotland-wide material as a basis for communications directly to members and via employers.
- 3.7 The Fund has provided regular updates to employers and members during the reform of the LGPS including updates on the Fund's website, newsletters and employer briefings. A letter will be issued to active members in April 2015 to give them formal notice of the Scheme changes as part of the Fund's disclosure requirements.
- 3.8 The Fund has been carrying out presentations in workplaces of larger employers. Employers are making arrangements for these sessions. Additional sessions are scheduled for any members to attend. These will be held across the Lothian regions and will be publicised in the letter to members. The following communications methods will also be used in the coming months:
- Fund e-newsletters linking to briefings on the Scotland-wide site sent via employer;
 - Short promotional video for use by employers at workplace or team meetings
 - Employer toolkit with staff newsletter article /payroll message /team briefing presentation - for use by the employer.
- 3.9 Work is also underway to update the Lothian Pension Fund website with the new scheme information.
- 3.10 On 26 February 2015, LPF held a further training workshop targeted at payroll and HR officers of employers. The purpose was to ensure employers are fulfilling their obligations for LGPS2015. A check list of these obligations has also been sent to all employers.

Staff training

- 3.11 Six members of the Fund's pension administration team attended training workshops in January 2015 provided by specialists from LGPC. Feedback and tuition is now being provided to colleagues.

Software systems

- 3.12 Final testing of both the pension administration system and the secure data transmission portal (between the Fund and employers) is in progress.

Actuarial factors

- 3.13 The Government Actuary's Department (GAD) has issued updated actuarial factors to ensure the new benefit structure of the LGPS 2015 can be appropriately reflected in pension calculations by administering authorities.
- 3.14 The Actuary is also in progress of reviewing the actuarial factors used for the calculation of strain costs payable by employers in the event of a member leaving before normal retirement.

Policy Statements – LGPS 2015 Regulations

- 3.15 The Fund has updated its “Administering Authority (Discretions) Policy” to accord with the regulatory requirements from 1 April 2015. Changes have been made to reflect:
- The introduction of Additional Pension Contributions (APCs) and removal of augmented service and ability to make new Additional Regulation Contributions (ARCs);
 - Removal of the requirement for members to nominate co-habiting partner to receive dependant benefits
 - Various other changes to reflect wording/terms used in the new regulations.

The revised statement is shown at Appendix 1. Committee is asked to approve the Policy, and in light of the uncertainty around the operation of the Public Sector Transfer Club (see below), to delegate decisions regarding transfers to the Director of Corporate Governance.

- 3.16 Similarly, the Pensions Administration Strategy and Communications Policy of Lothian Pension Fund will also require minor presentational update to reflect the LGPS 2015 Regulations. The statutory consultation with employers will be undertaken shortly and a revised strategy will be recommended to the Pensions Committee at a forthcoming meeting.

LGPS membership of the Public Sector Transfer Club

- 3.17 On 19 December 2014 the Local Government Pensions Committee (LGPC) sent a letter to the Chief Secretary to the Treasury, Danny Alexander MP, regarding the LGPS's membership of the Public Sector Transfer Club. With the objective of facilitating staff movement across the public sector, the principle of the Transfer Club is that final salary benefits are fully protected. The introduction of career average revalued earnings (CARE) schemes with differing revaluation rates adds not only administrative complexity but a potential cost burden for the LGPS. This arises from the proposed club arrangements for CARE schemes whereby transferred pensions would continue to be revalued using the index applied to active members in the previous scheme. The letter outlined that the LGPC would support the LGPS continuing to provide club transfers in respect of final salary benefits and therefore requested that it remain part of the Transfer Club for that purpose only. A response from HM Treasury is awaited as to whether the LGPS will be permitted to stay in the Club on that basis or whether the LGPS would be allowed to leave the Club.

Other Regulatory Updates

Transfers to Defined Contribution Schemes

- 3.18 As previously advised to Committee, private sector pension reform promoting more flexible access to pension savings has a potential impact for the LGPS arising from member transferring out of the LGPS to defined contribution (DC) schemes.

- 3.19 The Pension Schemes Bill, as originally drafted, required members of defined benefit (DB) schemes to have received independent financial advice before they would be permitted to transfer into a DC arrangement, unless they have pension wealth of less than £30,000. The Government had originally planned to set the £30k limit with reference to a members' total pensions savings. The Government has now amended this at the Report Stage on 27 January 2015 such that the exemption would now apply to members who have less than £30,000 of pension wealth in that DB scheme, on a Cash Equivalent Transfer Value (CETV) basis. The National Association of Pension Funds (NAPF) has welcomed this as providing "clarity for DB schemes whilst ensuring adequate protection for members".
- 3.20 On 24 February 2015, HM Treasury issued draft "Funded Public Service Pension Schemes (Reduction of Cash Equivalents) Regulations 2015", setting out the method for calculating the level of reductions of a cash equivalent transfer value in order to provide protection to the funded LGPS.

Guaranteed Minimum Pension (GMP) – reconciliation to HMRC member records

- 3.21 Following the end of contracting out in April 2016, HMRC will be sending a statement to all affected individuals stating the amount of Guaranteed Minimum Pension (GMP) they will receive and who is responsible for paying it. Ahead of this, there is a requirement for pension schemes to reconcile their members' GMP records to those of the HMRC. Otherwise, schemes risk making overpayments to existing members and even individuals for whom they believe they have no liability. Schemes will have until December 2018 to challenge any discrepancies. With exercises frequently taking up to three years to complete, this gives schemes a limited window to make sure their own records tally with HMRC's.
- 3.22 The Fund has registered with HMRC for its GMP reconciliation service and has started examining members' records. Staff resources will continue to be directed towards this data cleansing activity in order to ensure compliance with HMRC deadlines. Updates on this work will be provided to Committee over the coming year.

LGPS in England and Wales – Shadow Scheme Advisory Board (SSAB)

- 3.23 The SSAB has announced its 2015 strategy to tackle scheme deficits. Its stated objective is a "stronger, more flexible" approach to deficit management. Policy recommendations include the calculation of funding levels on a standardised basis to allow for a more reliable comparison of funds, also serving to aid the process of identifying where help and intervention may be needed. Additionally, funds should have enhanced flexibility in managing employer exit payments and that calculation of exit payments should be revised. The development of best practice guidance for funds in managing deficits of employers, including the benefits of doing covenant checks and the range of security options available to funds is also proposed.

- 3.24 This update on the Shadow Scheme Advisory Board is provided to Committee purely for information as the regulatory regime is entirely separate from that pertaining to the LGPS in Scotland. Nevertheless, the issues arising may similarly prevail in Scotland and may well be the focus of attention of the Scottish Scheme Advisory Board, once this is established from 1 April 2015.

Measures of success

- 4.1 This report is purely advisory.

Financial impact

- 5.1 There are no financial implications arising directly from this report. However, changes to the LGPS in Scotland will have financial consequences for Lothian Pension Fund and Lothian Buses Pension Fund, participating employers and members. These are addressed in the separate reports on this agenda covering the respective actuarial valuations.

Risk, policy, compliance and governance impact

- 6.1 This report is purely advisory at this stage. There is a risk, however, that early-access and taxation changes for defined contribution pension schemes may have an impact on the cash-flow, investment and funding of the pension funds.

Equalities impact

- 7.1 There are no adverse equalities impacts arising from this report. Changes to the design of the LGPS are subject to Equality Impact Assessment by the Scottish Government.

Sustainability impact

- 8.1 There are no adverse sustainability impacts arising from this report. The Public Service Pensions Act 2013 aims to make pensions more sustainable.

Consultation and engagement

- 9.1 The Consultative Panel for the Lothian Pension Funds, comprising employer and member representatives, is integral to the governance of the Funds. Lothian Pension Fund is committed, on an ongoing basis, to keeping its employers and members fully informed of all the key developments on reform of the LGPS in Scotland.

Background reading / external references

Scotland wide communications for the LGPS 2015 is provided at:

www.scotlpgs2015.org.

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Links

Coalition pledges

Council outcomes CO26 - The Council engages with stakeholders and works in partnerships to improve services and deliver agreed

Single Outcome Agreement

Appendices Appendix 1 - Draft Administering Authority (Discretions) Policy Statement

Lothian Pension Fund Pensions Discretions Policy

Appendix 1

This is the Pensions Discretions Policy of Lothian Pension Fund (“the Fund”). It is prepared and maintained by the City of Edinburgh Council, the Administering Authority for the Fund. This statement was agreed by the Pensions Committee on 25 March 2015.

Lothian Pension Fund’s policy where discretion is applicable is shown in the table below. Where further discretion is required, officers’ over-riding priority will be to act in the best the interests of the Fund by taking into account advice (where applicable) and rulings on similar cases from the Pensions Ombudsman.

	Local Government Pension Scheme Administering Authority Discretions/Decisions	Current Policy
1	Whether to agree to an admission agreement with a body applying to be an admission body.	Funding Strategy Statement
2	Agree terms of admission agreement	
3	Whether to agree to an admission agreement with a NHS Scheme employing authority.	
4	Whether to terminate a transferee admission agreement in the event of <ul style="list-style-type: none"> • insolvency, winding up or liquidation of the body; • breach of its obligations under the admission agreement; • withdrawal of approval by HMRC to participate in the scheme; and • failure to pay over sums due to the Fund within a reasonable period of being requested to do so. 	
5	Agree method for paying additional pension with employer	
6	Whether to set up a separate admission agreement fund.	
7	Decide on Funding Strategy for inclusion in funding strategy statement for approval by Pensions Committee.	
8	Whether to obtain revision of employer’s contribution rate on termination of an admission agreement where underfunding not met by insurer, bond or indemnity.	
9	Whether to obtain revision of employer’s contribution rate if there are circumstances which make it likely a Scheme employer will become an exiting employer	
10	Whether any strain on Fund costs be paid up front by employing authorities following redundancy, early retirement, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on flexible or discretionary retirement.	
11	Agree to bulk transfer payment	

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12	<p>Governance compliance statement must state whether the administering authority delegates their function or part of their function in relation to maintaining a pension fund to a committee, a sub committee or an officer of the administering authority and if they do so delegate, state:</p> <ul style="list-style-type: none"> • the frequency of any committee or sub committee meetings • the terms of reference, structure and operational procedures appertaining to the delegation • whether representatives of employing authorities or members are included and, if so whether they have voting rights <p>The statement must also state</p> <ul style="list-style-type: none"> • the extent to which a delegation, or the absence of a delegation, complies with guidance from Scottish Ministers and the extent it does not comply, state the reasons for non-compliance and • the terms, structure and operational procedures appertaining to the local Pensions Board 	<p>Annual Governance Compliance Statement</p>
13	Decide frequency of payments to be made over to the Fund by employers and whether to make an administration charge.	<p>Pensions Administration Strategy</p>
14	Decide form and frequency of information to accompany payments to the Fund.	
15	Recover additional costs arising from employing authority's level of performance.	
16	Whether to charge interest on payments by employers which are overdue.	
17	Whether the Fund should appeal against employer decision (or lack of decision).	
18	Specify information to be supplied by employers to enable administration. Authority to discharge its functions.	
19	Whether to have a written pensions administration strategy and if so the matters it should include.	<p>Lothian Pension Fund will decide the form in which pension accounts are kept based on any published advice or best practice and in the most efficient manner that can be devised.</p>
20	A pension account may be kept in such form as the administering authority considers appropriate	

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Administering Authority Discretions Policy

21	Automatically aggregate terminated concurrent employments with active concurrent employment if no option is received from the scheme member within one month of being notified of the option to aggregate.	Lothian Pension Fund will automatically aggregate terminated concurrent employments with active concurrent employments if no option is received from the scheme member within one month of being notified of the option.
22	Whether to obtain a satisfactory medical certificate before agreeing to an application to pay Additional Pension Contributions (APCs) or Shared Cost Additional Pension Contributions (SCAPCs).	Members will be required to produce medical evidence in support of an application to purchase additional pension, unless SCAPCs are being paid in respect of lost pension due to short-term absence such as career break, child-related leave or reserve forces leave. Where that evidence incurs costs these will be met by the member.
23	Whether to accept an application to pay an APC/SCAPC if not satisfied that the member is in reasonably good health.	Where satisfactory medical evidence cannot be obtained in support of the member's application, the request will not be granted.
24	Whether to turn down a request to pay APCs or SCAPCs over a period of time where it would be impractical to allow such a request.	In view of the administration costs involved for both the Fund and the employer, requests to pay APCs or SCAPCs over a period of time to make up lost pension for an absence of less than 10 working days will be refused. Members will still be able to proceed but will be required to make APCs or SCAPCs as a lump sum payment.
25	Whether to charge a member for provision of estimate of additional pension that would be provided by the scheme in return for transfer of in-house AVC funds.	Member is entitled to one free estimate within a 12 month period. If a further estimate is to be provided within a 12 month period then a charge will be made.
26	Whether to extend the 3 month election period that allows a member on leaving employment (by reasons of redundancy) to capitalise their added years contract.	Lothian Pension Fund will not extend the election time period of three months for capitalisation except where a member was not made aware of this right.

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27	Whether, where a person is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.	Where a member is unable to manage their own affairs then it will decide, based on the circumstances of the individual case, who should receive payment of the member's benefits, having full regard for the fact that they must be applied for the benefit of the member or their beneficiaries.
28	Make an election on behalf of deceased member with a certificate of protection of pension benefits.	Lothian Pension Fund will determine the pay figure and make an election on behalf of a deceased person.
29	Allow extension of period within which a scheme member must submit election for benefits or alter the date from which they elect to have pension paid.	Members may make an election for payment of benefits up to three months before their intended retirement date.
30	<p>Can pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without the need for confirmation, grant of probate/letters of administration.</p> <p>Decide to whom a death grant is paid.</p>	As required Lothian Pension Fund will use its absolute discretion in accordance with the regulations and in the first instance consider the member's expression of wish form. Where no valid nomination exists, payment may be made to an obvious beneficiary i.e. spouse, children, dependant, relative, executors or any other person who makes a valid claim. In cases where a number of potential beneficiaries exist, dependency and intestate law will be considered as a guide to determining claims.
31	Decide to whom any Additional Voluntary Contributions or Shared Cost Additional Pension Contributions monies (including life assurance monies) are to be paid on the death of the member.	Lothian Pension Fund will decide, based on the circumstances of the individual case, who should receive payment of the member's monies, having full regard for the fact that they must be applied for the benefit of the member's nominee, personal representative or any person appearing to have been a relative or dependent of the member.

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32	Approve medical advisors used by employers (for ill-health retirement)	Lothian Pension Fund approves and maintains a list of medical advisors.
33	Whether to extend six month period to lodge a stage 1 Internal Dispute Resolution Procedure appeal.	The “appointed person”, as nominated by Lothian Pension Fund in accordance with Scheme Regulation 54 (3)(b), under its Internal Dispute Resolution Procedure, may extend the time limit depending on the merits of the case.
34	Date to which benefits shown on annual benefit statements are calculated.	Benefit statements will show benefits calculated as at 31 March for active members. Deferred and pension credit members will show benefits calculated to the most recent pension increase date.
35	Decide policy on abatement of pensions following re-employment.	Lothian Pension Fund will not abate pensions of pensioner members on re-employment (This excludes the abatement of Compensation Pensions where no such discretion exists).
36	Allow transfer of pension rights into the Fund	Transfer in of previous pension rights is restricted to Public Sector Transfer Club (PSTC). Applications must be made within twelve months of joining the pension scheme. <i>This position may be reviewed if there are any changes to the PSTC for the Local Government Pension Scheme following the introduction of the new Local Government Pension Scheme from 1 April 2015.</i>
37	Decide whether deferred beneficiary meets permanent ill-health criteria	Lothian Pension Fund will pay early payment of deferred on health grounds subject to ill-health medical certification.
38	Where a deferred member’s former employing authority has ceased to be a Scheme employer, whether to grant application for early payment of benefits on or after age 50/55 and before age 60	Lothian Pension Fund will not grant early payment of benefits on or after age 50/55 and before age 60 unless there are exceptional extenuating circumstances.

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39	Decide evidence required to determine financial dependence of co-habiting partner on scheme member or financial interdependence of co-habiting partner and scheme member	<p>Lothian Pension Fund will require the following documentary evidence from at least two years prior to the date of death:</p> <ol style="list-style-type: none"> 1. Proof that the scheme member and co-habiting partner were free to marry each other 2. Proof of co-habitation 3. Proof of financial interdependency 4. A declaration from the co-habiting partner that neither they nor the scheme member had been living with someone else as if they were husband and wife or civil partners.
40	Decide to treat a child who commences full-time education or vocational training after the date of the member's death as an eligible child after the child attains age 18 until age 23.	At the time of a member's death, a child over age 17 who is in full-time education having not having had a break of over one year will be treated as an eligible child.
41	Decide to treat child as being in continuous education or training despite a break.	A break of one year will be disregarded so long as there is a clear intention to return to education or training following the break.
42	Decide to suspend child's pension during a break in education or training.	Lothian Pension Fund will suspend a child's pension during a break in education or training.
43	Decide to treat a child who is disabled within the meaning of the Equality Act 2010 as being an eligible child.	Lothian Pension Fund will rely on medical certification. Where that evidence incurs costs these will be met by the child's guardian.
44	Decide whether to commute a small pension.	Lothian Pension Fund will commute small pensions in accordance with the provisions of the Finance Act 2004.
45	Decide whether to commute pension on grounds of serious ill-health.	Subject to the member's wishes and medical certification that life expectancy is less than one year, Lothian Pension Fund will commute pension on grounds of serious ill-health.

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Administering Authority Discretions Policy

46	Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled under 2 or more regulations in respect of the same period of membership	Lothian Pension Fund will award the benefit that produces the best benefit for the scheme member.
47	Decide valuation day for pension sharing order	The valuation day for pension sharing orders shall be the date of divorce. The implementation date for the pension sharing order will be the last day of the four month implementation period from the date of decree.
48	How to discharge Pension Credit liability	Lothian Pension Fund will discharge pension credit liabilities by conferring appropriate rights under the Scheme on the ex-spouse or ex-civil partner. The ex-spouse or ex-civil partner may request a transfer of pension rights to another qualifying arrangement.
49	Decide charges to be levied in Pension Sharing cases	Charges are set with reference to the National Association of Pension Funds schedule of charges and are increased in line with the cost of living each year.
50	Agree to pay annual compensation on behalf of employer and recharge payments to employer	Lothian Pension Fund on behalf of the City of Edinburgh Council pays compensation on behalf of employers and recharges payments to the employer, subject to any future reviews of the process.
51	Extend the time limit for repayment of a previous refund (16/5/74 to 05/04/1978)	Lothian Pension Fund will extend the time limit indefinitely.
52	Intervals at which instalments of annual compensation are payable (may agree different to LGPS pension date)	Lothian Pension Fund on behalf of the City of Edinburgh Council pays annual compensation in line with the LGPS pension date i.e. in arrears on the 15 th of each month, subject to any future reviews of the process.

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Other Discretions (not covered under the provisions of the LGPS)		
53	Scheme members who have a deferred Scottish local government benefit and rejoin the LGPS, doesn't aggregate benefits and leaves again within two years.	To avoid making unauthorised payments, Lothian Pension Fund will not subsequently pay a short service refund lump sum to the member on leaving.
54	For upheld complaints, consider any financial awards in line with Lothian Pension Fund's Policy relating to compensation for distress or inconvenience.	When considering financial awards, consideration will be given to the levels of compensation awarded by the Pensions Ombudsman for similar cases.