# Pensions Committee

## 2.00pm, Tuesday, 22 March 2022

# Operating Plan Update

## 1. Recommendations

The Pensions Committee (Committee) is requested to:

1.1 note progress of the Fund against the 2021-22 Strategy and Business Plan, together with specific updates on:

- performance indicators;
- survey results; and
- membership and cashflow monitoring.

**John Burns**
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# Operating Plan Update

## 2. Executive Summary

2.1 The purpose of this report is to provide an update on progress against the 2021-2022 Operating Plan, performance indicators and the actions to enable the Fund to meet its key objectives.

## 3. Background

3.1 The 2021-2022 Operating Plan centres around six broadly defined strategic goals, each with more detailed objectives and accompanying targets and measures to allow us to monitor our progress and identify where interventions may be required.

They are:

- Provide secure and affordable benefits for our members
- Reduce complexity
- Manage our risks
- Create a place where people do great work
- Influence the LGPS of the future
- Be responsible

3.2 The Plan forms the basis of the work ahead of the Fund in 2021-2022 and will be reviewed each year.

## 4. Main Report

4.1 Progress of particular note made against the 2021-2022 Operating Plan since the last update to Committee is shown below.

**Performance Indicators**

4.2 Committee will recall there is a new range of performance indicators set out in the Operating Plan 2021-2022. These including a wider range of new measures as well as those key indicators from previous years. The Appendix shows the quarterly and year to date for the key indicators. Items of note include:

**Pension Administration performance indicators**

4.3 Our overall pension administration critical performance measure (PA1) incorporates twelve other pension administration key performance indicators - PA2 to PA10 and

PA12 to PA14 as shown on appendix 1. These key indicators enable the Fund to compare our key measures with industry peers which helps identify areas for improvement and ensures the service provided to members continues to meet current standards. Our non-key procedure measure (PA11) incorporates other pension administration measures, for example, aggregation (joining two periods of membership together), recalculation of pension benefits due to a backdated pay award, updating member details (bank details, marital status) etc.

4.4 Two indicators are currently amber for the year to date including notification of dependant benefits.

4.5 Six of the PIs are amber for this quarter. Monitoring of performance is carried out weekly helping assign work effectively without disrupting our overall critical key measure. However, this identified that non-key workload was experiencing a backlog. The Fund is comfortable that our overall critical and key performance measures are in an overall stable position to allow us to process these important but not so urgent tasks. Therefore members of the pensions administration team have been targeting non-critical work, specifically Aggregation and Recalculation of pensions benefits due to a backdated pay award. This allows us to maintain overall levels of member satisfaction whilst keeping in mind the importance of maintaining our critical and key measures. Allocation of finite staff resources and suitable prioritisation of administrative tasks is subject to ongoing management review.

**Accreditation**

4.6 The Customer Service Excellence Standard Award annual assessment will be held on the 3 March 2022 and take place digitally. The annual assessment covers key customer service provisions such as complaints, listening to customers and responding to feedback. An update on the assessment will be provided to the Committee.

**Freedom of Information (FOI) requests**

4.7 Fund receives regular FOI requests and in 2021 responded to 15 that covered topics such as private market investments, shareholdings and voting as well as software. These requests are resource intensive and where possible these queries are referred to the website for publicly available information.

**Employers' survey**

4.8 The annual employer's survey was held at the end of 2021. 36 responses were received this year and the key results were as follows:

- 35 out of the 36 respondents either agreed or strongly agreed that the overall service provided by the fund was excellent. One respondent disagreed on this statement.

- the monthly employer bulletin continues to be well received with 94% (100% in 2020) satisfaction and the preferred method of communications for most.

4.9 Once again, the quality of information received from the Fund and the professionalism and attitude of our staff was praised and the following comments emphasise this including "I say it every year, but I can't fault the support I get from the staff at Lothian Pension Fund", "The LPF team are always helpful and professional in their customer approach" and "Staff respond promptly and are exceptionally helpful if assistance is required with a query".

**Web and digital services**

4.10 The updated website is expected to go live at the end of March/early April 2022 and a verbal update will be provided at Committee. The new site will provide a single integrated platform, hosted by the Fund and will allow development of further services online in the future.

4.11 The Fund continues to move to digital communications where possible and appropriate. This year, members will be sent their annual newsletter by email link where we hold a valid email address. This will encourage members to visit the website and access the online service. Fifty percent of all members have registered for the My Pension Online and within the active members, this figure rises to 60% using the service. To increase this, we are working with employers to obtain email addresses where these are not currently held.

4.12 The services provided via the My Pension Online portal continue to increase. In addition to the growing number of services that can now be performed online, we are working on implementing a new facility which will allow active members to see and request payment of voluntary retirement benefits online. This is in addition to the service currently provided for deferred members where they can also choose to view information on transferring their benefits to a new scheme.

4.13 In February we launched a new incoming call solution replacing the interim voicemail solution. The new system allows us to accept incoming calls from customers who are initially provided with options so that they are put through to the right person or team.

4.14 When calling, the customer is also provided with additional information regarding our online facility, website and helphub, and further information relevant to the option they have chosen e.g. requesting an estimate, transferring pension rights and paying extra into the scheme. Once fully embedded, the Fund will use the system to respond to incoming email enquiries resulting in a better customer experience as a history of the email conversation previously received will be available for the member of staff dealing with the enquiry.

**Pensioner members' survey**

4.15 The annual pensioner survey was held in January with 444 members responding. The key results of those who responded are shown below:

- 98.87% agreed that overall, they feel the service provided by the Fund is excellent.
- 95.11% felt the Fund was easy to contact.
- 93.33% agreed that overall, they feel satisfied with Penfriend newsletter

4.16 Comments ranged from "I think you provide an excellent service", "Couldn't be more helpful from start to finish" and "always have problems logging in."

4.17 The survey results are being analysed and an improvement plan developed using the comments and feedback from both surveys. This will enable actions to be taken to improve our services further.

**The Local Government Pension Scheme (Scotland) (Amendment) Regulations 2021**

4.18 On 1 November 2021, the Scottish Public Pensions Agency (SPPA) published a consultation on amendments to the Local Government Pension Scheme (Scotland) Regulations 2018. The proposed amendments covered a number of different areas:

- Amendments to transitional regulations to ensure that all former members and pension credit members have the right to elect for early payment of benefits from age 55;
- Amendments to the current underpin calculation to ensure that actuarial increases/reductions are taken into account in the underpin calculation;
- Amendments to survivor benefits following two recent legal cases (Walker v Innospec and Mrs Goodwin v Department of Education) providing equal benefits for same-sex couples and male survivors of female members to those provided to widows;
- Provision of further flexibilities to allow pension funds to manage employer exits; and
- Retrospective amendment to the cost-cap.

4.19 Fund officers collaborated with colleagues in other funds to produce a joint response to cover the first three items above. The response welcomed the changes to the transitional regulations. However, the response commented that rectification work on the underpin should be included in forthcoming legislation for the McCloud remedy rather than potentially reviewing records on two occasions. It was also highlighted that software developers were not yet in a position to provide funds with amended calculation software and so making a change now would put increased pressure on funds with the potential requirement for manual recalculations. The response also highlighted that although the changes proposed to survivor benefits were a positive change, the proposals as currently framed do not cover all circumstances and the policy aim that all survivors are placed in the same position is not satisfied. In order to prevent future legal challenge, the amendments should go further to ensure that all survivors are treated the same and that all membership is included when survivor benefits are calculated.

4.20 In addition to contributing to the collaborative response, Fund officers also provided a response regarding the proposed additional flexibilities to help funds manage employer exits. Over the last few years, Lothian Pension Fund has seen an increasing number of small, third-sector bodies exit the Fund due to cost pressures. Officers have worked with these employers to deliver a solution to help employers make an affordable exit from the fund. The Fund's former CEO also participated in a working group to develop some of the flexibilities which are included in the proposals. The amendments include proposals to require that indicative exit valuations are produced with every triennial valuation (something that Lothian Pension Fund has provided for some time now), as well as introducing provisions to fix a valuation figure for 30 day and allowing the use of deferred debt arrangements. The Fund's response highlighted several areas where wording should be amended to ensure the policy intentions are met, as well as recommending that accompanying statutory guidance is produced for cases where deferred debt arrangements are agreed. The response also noted that there may be only limited circumstances where a deferred debt arrangement will be preferable to using a debt spreading agreement under a funding agreement. The Fund also advocated that these flexibilities should be applied solely at the fund's discretion. Based on the experiences of working with employers looking to exit the Fund, officers remain comfortable that our Funding Strategy Statement and previously agreed principles for dealing with employer exits provide an equitable and pragmatic solution.

Both the collaborative response and Lothian Pension Fund's response are included as an Appendix to this report.

**Membership and Cashflow monitoring**

4.21 Tables detailing the cashflows as at the end of December 2021 and projections for the financial year are shown in Appendix 2. These have been prepared on a cashflow basis (compared to the accruals basis of the year-end financial statements and budget projections).

4.22 In general, 2021/22 projected cashflows are in line with last year's actuals. As is expected with Lothian Pension Funds' maturing membership profile, pensioner payments are expected to increase over the period as pensioner numbers grow. The largest movement against prior relates to transfers from other schemes. 2020/21 included a one-off event where an employer, Visit Scotland, centralised its membership into Lothian Pension Fund. Due to the late receipt of one of the payment tranches, some of this income is reflected in the current year.

4.23 Excluding one off exercises like the Visit Scotland transfer, for the foreseeable future Lothian Pension Fund expects to have a negative cash flow position, whereby pension payments exceed total contributions received. Increased investment income has been targeted in recent years for this scenario, which is expected to exceed net cashflow for the long term.

**Investment Strategy Update**

4.24 The Fund's main investment strategy is presented in the table below. The target allocations and permitted ranges were agreed by the Pensions Committee in June 2021, and this long-term strategy is expected to remain in place until at least the next actuarial valuation in 2023 when it will be reviewed again.

| Main Strategy | | Percentages | | |
|---|---|---|---|---|
| **Policy Group** | **Range** | **Target** | **Actual** | **Deviation** |
| **Equities** | **50-70** | **60** | **61** | **+1** |
| **Real Assets** | **10-30** | **20** | **17** | **-3** |
| **Non-Gilt Debt** | **0-20** | **10** | **7** | **-3** |
| **LDI (Gilts)** | **0-20** | **10** | **5** | **-5** |
| **Cash** | **0-15** | **0** | **10** | **+10** |
| **TOTAL** | | **100** | **100** | |

**31 December 2021**

4.25 The policy group allocations are monitored by the internal team with additional oversight by the Joint Investment Strategy Panel (JISP), which meets at least quarterly. The allocations remain comfortably within the permitted ranges.

4.26 There are several reasons for the deviations from target. These include market movements and the liquidity of specific investments as well as deliberate overweight or underweight positions. The 3% underweight to real assets is related to the illiquidity of private market assets – opportunities to invest in attractively valued assets and distributions of income and capital from existing investments are unpredictable. The Fund continues to target an increase in this policy group to achieve target.

4.27 The underweight positions in Non-Gilt Debt and LDI and the overweight position in Cash reflect the assessment, stated in the operating plan update paper last quarter, that bond prices are vulnerable to increasing inflation expectations. With inflation significantly above target, bond yields have been rising and bond prices falling as several central banks, including the Bank of England, switch gears by raising interest rates and ending quantitative easing.

4.28 This "policy regime shift" presents a challenging investment backdrop with many asset valuations at the high end of historical ranges. There has been relatively little transactional activity in the Fund since the last Committee report in December, although the investment team has identified several potential infrastructure and property investments and is looking to deploy cash in other assets when expected returns are higher than they have been in recent months.

4.29 The investment team is also monitoring the evolving regulatory environment with respect to climate change reporting and transparency. There is a good chance that recent reporting requirements issued by the DWP for private sector pension funds will be mirrored in due course by regulations for the public sector LGPS funds. The Fund has been preparing to source additional data through external providers, including managers, to achieve transparency and best practice.

## 5. Financial impact

5.1 A summary of the projected and year-to-date financial outturn compared to the approved budget for 2021/22 is shown in the table below:

| Category | Approved Budget £'000 | Projected Outturn £'000 | Projected Variance £'000 | Budget to date £'000 | Actual to date £'000 | Variance to date £'000 |
|---|---|---|---|---|---|---|
| Employees | 5,859 | 5,442 | (417) | 4,394 | 3,582 | (812) |
| Transport & Premises | 254 | 235 | (19) | 191 | 167 | (24) |
| Supplies & Services | 2,292 | 1,904 | (388) | 1,719 | 1,351 | (368) |
| Investment Managers Fees -Invoiced | 3,300 | 3,300 | - | 2,475 | 2,437 | (38) |
| -Uninvoiced | 18,700 | 18,700 | - | 14,025 | 14,025 | - |
| Other Third-Party Payments | 1,426 | 1,374 | (52) | 1,070 | 953 | (117) |
| Central Support Costs | 685 | 685 | - | 514 | 473 | (41) |
| Depreciation | 249 | 249 | - | 187 | 187 | - |
| **Gross Expenditure** | **32,765** | **31,889** | **(876)** | **24,575** | **23,175** | **(1,400)** |
| Income | (2,232) | (1,898) | 334 | (1,674) | (1,270) | 404 |
| **Total Cost to the Funds** | **30,533** | **29,991** | **(542)** | **22,901** | **21,905** | **(996)** |

5.2 The financial outturn includes year to date budget, actual expenditure and variance as at the end of December 2021. Year to date actual expenditure includes provision for services incurred but for which no invoice has yet been received.

5.3 The projection shows an underspend of approximately £542k. The key variances against budget are:

- *Employees* – £417k underspend. A small number of posts have been held vacant. This, together with the timing of recruitment, including replacements, has resulted in a projected underspending.
- Supplies & Services - £388k underspend. A majority of underspend is in relation to system costs. The expected front office system upgrade expected to take place this year has been postponed to 2022/23.
- Other Third Party Payments - £52k underspend. Broadly in line with budget but an underspend is expected in relation to investment research.
- *Income* – £334k below budget. Income in relation to collaborative partners is based on a cost sharing mechanism. Due to underspend against budget, particularly against employee costs, as well as the lower-than-expected deal flow in relation to collaborative investments, income is expected to be below original forecast.

5.4 Uninvoiced expenditure (i.e. investment management costs deducted from capital) is assumed to be in-line with budget. There has been no change to the investment strategy for the period, on which the budgeted figures are based. The Fund continues its efforts to enhance the monitoring of these fees and is working with managers to improve the transparency of these charges.

## 6. Stakeholder/Regulatory Impact

6.1 The Pension Board, comprising employer and member representatives, is integral to the governance of the Fund and they are invited to comment on the relevant matters at Committee meetings.

## 7. Background reading/external references

7.1 [LPF Operating Plan 2020/21]

## 8. Appendices

Appendix 1 – Operating Plan Performance Indicators and Forecast Cashflow

Appendix 2 – LPF Consultation Response

Appendix 3 – Strathclyde Consultation Response [as per note above]

LOTHIAN
PENSION FUND

# Operating Plan

## Pensions Committee

## 22 March 2022

## Appendix 1 Item 6.9

Appendix 1

## Operating Plan Performance Indicators – Targets & Actual Performance 2021/22

| | Q1 April to June | Q2 July to Sept | Q3 Oct to Dec | Target | Status Year to date |
|---|---|---|---|---|---|
| **Maintain Customer Service Excellence Standard** | Annual assessment will be carried out in Q4 | | | Retain CSE Award | |
| **Maintain Pensions Administration Standards Association (PASA) accreditation.** | Annual certification for year 2 via a questionnaire and PASA appointed Independent Assessor. | | | Retain PASA accreditation | |
| **Overall satisfaction of employers, active members and pensions measured by surveys** | Rolling 12-month performance to end Q1 2022 is 97.4% | | | >90% | |
| **Proportion of active members receiving a benefit statement and time of year statement is issued** | 100% | | | 100% issued by 31 August 2021 | |
| **Proportion of critical pensions administration work completed within standards (PA1)** | 97.2% (Year to date 97.2%) | 97.6% (Year to date 97.4%) | 97.3% (Year to date 97.3%) | >92% | |
| **Acknowledge the death of a member to next of kin within 5 working days. (PA2)** | 97.2% (Year to date 97.2%) | 98.1% (Year to date 97.7%) | 97.4% (Year to date 97.4%) | 96% | |
| **Estimate requested by employer of retirement benefits within 10 working days. (PA3)** | 100% (Year to date 100%) | 100% (Year to date 100%) | 100% (Year to date 100%) | 91% | |
| **Notification of dependant benefits within 5 working days of receiving all necessary paperwork. (PA4)** | 80.7% (Year to date 80.7%) | 91.0% (Year to date 83.4%) | 93.2% (Year to date 92.4%) | 96% | |
| **Notify early leavers entitled to deferred benefits of their rights and options within 10 days of being informed of end of pensionable service. (PA5)** | 87.7% (Year to date 87.7%) | 96.4% (Year to date 91.4%) | 94.8% (Year to date 92.0%) | 91% | |
| **Notify members holding more than 3 months, but less than 2 year service, of their options at leaving. Target is within 10 days of the end of the one month and a day lying period or after the employer providing full leaving information if later. (PA6)** | 99.2% (Year to date 99.2%) | 94.9% (Year to date 96.5%) | 89.2% (Year to date 94.5%) | 85% | |
| **Pay a refund of contributions within 7 working days of receiving the completed declaration and bank detail form. (PA7)** | 99.0% (Year to date 99.0%) | 98.7% (Year to date 98.8%) | 99.0% (Year to date 99.0%) | 91% | |
| **Pay any lump sum death grant within 7 working days of receipt of the appropriate documentation. (PA8)** | 98.6% (Year to date 98.6%) | 93.4% (Year to date 98.5%) | 95.1% (Year to date 97.2%) | 96% | |

| | Q1 April to June | Q2 July to Sept | Q3 Oct to Dec | Target | Status Year to date |
|---|---|---|---|---|---|
| **Pay lump sum retirement grant within 7 working days of receiving all the information we need from the member. (PA9)** | 98.3% (Year to date 98.3%) | 97.4% (Year to date 97.9%) | 99.4% (Year to date 98.4%) | 96% | |
| **Payment of CETV within 20 working days of receiving all completed transfer out forms. (PA10)** | 100% (Year to date 100%) | 100% (Year to date 100%) | 94.7% (Year to date 98.2%) | 96% | |
| **Pension Admin Workflow - Non Key Procedures Performance. (PA11)** | 88.0% (Year to date 88.0%) | 88.0% (Year to date 88.0%) | 77.7% (Year to date 84.8%) | 75% | |
| **Provide a guaranteed Cash Equivalent Transfer Value (CETV) within 10 working days of receiving a request. (PA12)** | 98.2% (Year to date 98.2% | 93.5% (Year to date 96.2% | 98.8% (Year to date 96.7% | 91% | |
| **Provide new members with scheme information within 20 working days of getting details from employer (PA13)** | 99.9% (Year to date 99.9%) | 99.3% (Year to date 99.6%) | 98.4% (Year to date 98.9%) | 100% | |
| **Provide transfer-in quote within 10 working days of receiving the Cash Equivalent Transfer Value (CETV) from member's previous pension provider. (PA14)** | 100% (Year to date 100%) | 100% (Year to date 100%) | 88.9% (Year to date 96.3%) | 96% | |
| **Investigate and respond to a complaint - within 20 working days (PA15)** | 100% (Year to date 100%) | 99.8% (Year to date 100%) | 100% (Year to date 99.8%) | 96% | |
| **Audit of annual report 2021** | Unqualified opinion | | | Unqualified opinion | |
| **Percentage of employer contributions paid within 19 days of month end** | 99.9% (Year to date 99.9%) | 99.8% (Year to date 99.9%) | 100% (Year to date 99.9%) | 99% | |
| **Data quality – compliance with best practice as defined by the Pensions Regulator** | Assessment made at 2021/22 year-end | | | Fully compliant | |
| **Monthly Pension Payroll paid on time (Service1)** | 100% (Year to date 100%) | 100% (Year to date 100%) | 100% (Year to date 100%) | Yes | |
| **Level of sickness absence (Service4)** | 1.65% (Year to date 1.65%) | 3.09% (Year to date 2.4%) | 2.5% (Year to date 2.4%) | 4% | |
| **Proportion of staff engaged as measured in the Staff Engagement Survey** | 76% | | | 70% | |

| | Q1<br>April to June | Q2<br>July to Sept | Q3<br>Oct to Dec | Target | Status<br>Year to date |
|---|---|---|---|---|---|
| **Percentage of staff that have completed two days training per year.**[1] | 27%<br>(Year to date 27%) | 40%<br>(Year to date 40%) | 76%<br>(Year to date 76%) | 100% |  |

[1] LPF are comfortable that the staff training target will be achieved by the end of the year.

## Membership and Cashflow Monitoring 2021/22

| **Lothian Pension Fund** | **2020/21 Actual** | **2021/22 YTD** | **2021/22 Projected** |
|---|---|---|---|
| **Income** | **£'000** | **£'000** | **£'000** |
| Contributions from Employers | 194,223 | 91,802 | 200,400 |
| Contributions from Employees | 51,055 | 25,753 | 52,000 |
| Transfers from Other Schemes | 49,894 | 15,816 | 20,000 |
| | **295,172** | **133,371** | **272,400** |
| **Expenditure** | | | |
| Pension Payments | (187,565) | (96,687) | (196,000) |
| Lump Sum Retirement Payments | (51,222) | (28,774) | (60,000) |
| Refunds to Members Leaving Service | (551) | (195) | (500) |
| Transfers to Other Schemes | (5,734) | (2,718) | (6,000) |
| Administrative expenses | (2,859) | (1,450) | (2,900) |
| | **(247,931)** | **(129,824)** | **(265,400)** |
| **Net Additions/(Deductions) From Dealings with Members** | **47,241** | **3,547** | **7,000** |

| **Scottish Homes Pension Fund** | **2020/21 Actual** | **2021/22 YTD** | **2021/22 Projected** |
|---|---|---|---|
| **Income** | **£'000** | **£'000** | **£'000** |
| Administration charge | 70 | 90 | 90 |
| **Expenditure** | - | | |
| Pension Payments | (6,619) | (3,210) | (6,500) |
| Lump Sum Retirement Payments | (721) | (260) | (750) |
| Transfers to Other Schemes | - | - | (100) |
| Administrative expenses | (64) | (45) | (90) |
| | **(7,404)** | **(3,515)** | **(7,440)** |
| **Net Additions/(Deductions) From Dealings with Members** | **(7,334)** | **(3,445)** | **(7,350)** |

# The Local Government Pension Scheme (Scotland) Regulations 2018

The Scottish Government
Riaghaltas na h-Alba

## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### *1. Name/Organisation*

**Organisation Name**

Lothian Pension Fund

**Title** **Mr** ☐ **Ms X** **Mrs** ☐ **Miss** ☐ **Dr** ☐ ***Please tick as appropriate***

**Surname**

McKeown

**Forename**

Jane

### *2. Postal Address*

Atria One
PO Box 24158
Edinburgh

| | | |
|---|---|---|
| **Postcode** EH3 8EX | **Phone** McK39J77@lpf.org.uk | **Email** |

### *3. Permissions* - I am responding as…

**Individual** / **Group/Organisation**

☐ ***Please tick as appropriate*** X

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

***Please tick as appropriate*** ☐ **Yes** ☐ **No**

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

***Please tick ONE of the following boxes***

Yes, make my response, name and address all available ☐

*or*

Yes, make my response available, but not my name and address ☐

*or*

Yes, make my response and name available, but not my address ☐

**(c)** The name and address of your organisation ***will be*** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your ***response*** to be made available?

***Please tick as appropriate*** ☐ **Yes** **X No**

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

***Please tick as appropriate*** ***X* Yes** ☐**No**

# The Local Government Pension Scheme (Scotland) Regulations 2018

1. Early payment of pension at age 55 - these regulations allow deferred members of earlier schemes to elect for early payment of their benefits between age 55 and 60 without needing their former employer's consent. This also applies to pension credit members who were awarded the credit under the Earlier Schemes to be able to elect to receive their benefits early, at a reduced rate, on or after age 55.

*Please note that Lothian Pension Fund has collaborated with colleagues in other Scottish LGPS funds to produce a joint response to cover items 1, 2,3 and 5.

Our response to item 4 is below.

2. Calculation of 'the Underpin' - the regulations also clarify how to carry out the calculation of the protection known as 'the underpin', taking into account the actuarial increase/reduction when considering the better of the two benefit options for the member on retirement.

3. Survivor Benefits Walker & Goodwin Judgements - the regulations amend the calculation of survivor partner pensions so that surviving civil partners, survivors of married same-sex couples and male survivors of female married members are placed in a similar position to female survivors of male married members.

4. Further Flexibilities for Fund Authorities - these regulations provide further flexibilities for fund authorities in dealing with employers and allow for amendments to an employer's contribution rate in between valuations.

**10. In regulation 60(1)(a) (actuarial valuations of pension funds), after "pension funds" insert "both on an ongoing and a cessation basis".**

We welcome the inclusion of wording which requires the additional information (regarding the cessation valuation) to be provided. However, we think a small adjustment is required. Regulation 60(1) relates to triennial valuations of each LGPS pension fund.

The LGPS Scotland Working Group made a recommendation for cessation valuations to be provided by default on all valuation statements, in order to support employers' awareness of the extent of such liabilities and ability to put in place appropriate measures to meet those liabilities.

We do not think the suggested amendment addresses the recommendation. Instead of the valuation of the pension funds being assessed on both an ongoing and a cessation basis, it is the amount of the liabilities arising in respect of an employer's members (as stated within a rates and adjustments certificate) that is to be provided on an ongoing and a cessation basis.

We suggest a new paragraph be included as follows:

In regulation 60 (actuarial valuations of pension funds), after paragraph (8) insert:

"(9) A rates and adjustments certificate must specify the amount of the liabilities arising in respect of an employer's members as at the valuation date, assessed on both on an ongoing and a cessation basis.".

**11.**

(1) "(2A) An actuarial valuation as at the exit date obtained in accordance with paragraph (2) will remain fixed for a period of 90 days.".

The LGPS Scotland Working Group made a recommendation for a cessation valuation to be fixed for 3 months. This was intended to support employer-initiated exits, by allowing employers certainty when in discussion with their boards. Such certainty is required in relation to discussions and decisions around the employer's potential exit from the scheme, i.e. in the period before the employer becomes an exiting employer.

We do not think the suggested amendment addresses the recommendation, as it would only fix the exit valuation for 90 days post-exit.

We suggest the wording of the paragraph to be inserted after regulation (61)(2) be amended as follows:

"(2A) If a person wishes to consider whether or not to become an exiting employer, they may request the appropriate administering authority to obtain:

(a) an actuarial valuation as at a specific date (in advance of the employer's exit date) of the liabilities of the fund in respect of benefits in respect of such employer's current and former employees; and

(b) a revised rates and adjustments certificate showing the exit payment that would be due from such employer, or exit credit payable to such employer, in respect of those benefits,

and such valuation shall, for a period of 90 days from the date of such valuation, be used in substitution for any valuation as at the employer's exit date, to be carried out under paragraph (2)".

**(2) and (3) Deferred debt agreements**

As stated in our January 2021 comments to SPPA (invitation to comment on exit flexibilities), we think there may only be limited circumstances where a deferred debt arrangement could provide a better solution than a debt spreading arrangement under a funding agreement. A deferred debt arrangement should only be offered in return for full assurance that the fund will be protected against downside risk.

It does not seem suitable to allow an exiting employer to "*pay the secondary rate of contributions as determined under regulation 60(8)(b) as revised from time to time following an actuarial valuation until the termination of the deferred debt agreement*" (as anticipated under new paragraph (4C)(b)(ii)). That is because the secondary rate may not be based on or determined by the exit valuation (which generally uses more prudent assumptions).

If these amendments are to be included, it should be very clear in accompanying statutory guidance that such arrangements are not suitable for employers in financial difficulty because:

a) obliging the exiting employer to pay the secondary rate of contributions (due under new paragraph (4C)(b)(ii) might not resolve the issue as this rate could still be too high; and
b) an exit debt may still be owed on termination of the deferred debt arrangement due to poorer than expected investment performance or any adverse movement in other actuarial factors impacting the revised cessation valuation, e.g. discount rate and longevity.

Postponing the inevitable crystallisation of the exit debt in these circumstances allows affordability issues to perpetuate and the arrangement seems likely to lead to debt write-off. Significantly, it would be inappropriate for the administering authorities to allow financially weak employers access to risk assets, even if their prospects are expected to improve because the position could also worsen in the circumstances described in limb (b).

Statutory guidance should also confirm that deferred debt arrangements could only be suitable for exiting employers with a very strong financial covenant who are willing to offer the fund suitable downside protection. Employers who wish to enter a deferred debt arrangement should be expected to satisfy the administering authority of the strength of its covenant to meet both contribution rates throughout the term of the arrangement and any exposure to cessation liabilities at the end (including exposure arising from poorer than expected investment performance or any adverse movement in other actuarial factors impacting the revised cessation valuation). This may also require the fund to be granted security over the employer's assets or for another scheme employer to provide a guarantee. The covenant analysis should address the employer's ability and willingness to recognise the extent of its obligations to the fund, even if the obligations have not crystallised.

The employer's understanding and awareness that an exit debt may be owed on termination of the deferred debt arrangement will be very important. Administering Authorities should be trying to control the liabilities insofar as possible but cannot be expected to specifically target meeting the funding requirement of a specific employer through investment returns under a deferred debt arrangement.

**12. Revision of rates and adjustments certificate: Scheme employer contribution**

- **Paragraph 61A(1)(b)(i)** We think it may be suitable for an administering authority to obtain a revision of the rates and adjustments certificate where it appears likely to the administering authority that the amount of the liabilities arising or likely to arise has changed significantly since the last valuation. An example of where this would be appropriate would be if a Scheme employer awarded a significant salary increase to a current member within one year of the most recent triennial valuation date.
- **Paragraph 61A(1)(b)(i) and (ii)** We do not think it would be suitable for an administering authority to obtain a revision of the rates and adjustments certificate where:
    - it appears likely to the administering authority that there has been a significant change in the ability of the Scheme employer or employers to meet the obligations of employers in the Scheme. The issue of the affordability of the contributions for the Scheme employer cannot simply be addressed by changing the level of contributions, because the cessation liabilities attributable to that employer will continue to exist and continue to accrue until their exit. We think affordability issues are better addressed by supporting an employer's exit from the scheme and managing their exit debt through a debt spreading arrangement.
    - a Scheme employer or employers have requested a review of Scheme employer contributions and have undertaken to meet the costs of that review. The purpose or basis for such review is not clear. Again, the issue of the affordability of the contributions for the Scheme employer cannot simply be addressed by reviewing and changing the level of contributions. Instead, employers may (under with the relevant funding strategy statement) have the opportunity to ask an administering authority to review the investment strategy applied to their participation in the scheme. Any points of accuracy relating to the matters referred to in Regulation 60 (5) and (6), e.g. the number of members who will become entitled to payment of pensions under the provisions of the Scheme, should be addressed through data quality checks. Otherwise, we think affordability issues are better addressed by supporting an employer's exit from the scheme and managing their exit debt through a debt spreading arrangement.

**Revision of actuarial certificates: exit payments**

We welcome the inclusion of this wording which we think provides administering authorities with a legislative basis to recover exit debts over an extended period using a debt spreading arrangement. However, the relevant certificate to be revised would be the revised rates and adjustments certificate showing the exit payment due from the exiting employer produced under Regulation 61(2)(b) and not any rates and adjustments certificate produced under Regulation 60.

We suggest the wording of the paragraph to be inserted be amended as shown in red:

> 61B.—(1) Where the funding strategy mentioned in regulation 56 (funding strategy statement) sets out the administering authority's policy on spreading exit payments, that administering authority may obtain a revision of the rates and adjustments certificate under regulation 61 (Special circumstances where revised actuarial valuations and certificates must be obtained) to show the proportion of the exit payment to be paid by the exiting Scheme employer in each year after the exit date over such period as the administering authority considers reasonable.

**Suspension Notices**

We would also suggest the following amends to regulation 61(3), in order to make clear the suspension notices should only be used as a temporary measure (rather than remaining in place indefinitely, as is currently implied). The administering authority should also be able to withdraw a suspension notice prior to the expiry of the suspension period, at its discretion. This may be necessary following deterioration of the employer's financial position, for example.

> "As an interim solution, an administering authority may by written notice ("suspension notice") to an employer suspend that employer's liability to pay an exit payment starting from the date when that employer would otherwise become an exiting employer until an agreed date in the future. An Administering Authority may withdraw a suspension notice prior to the expiry of the suspension period, at its discretion."

5. Cost Cap - in order for GAD to finalise the result of the 2017 valuation, the cost cap figure is amended, with retrospective effect, to 1 April 2015.

Thank you for your comments.

# The Local Government Pension Scheme (Scotland) Regulations 2018

The Scottish Government
Riaghaltas na h-Alba

## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### *1. Name/Organisation*

**Organisation Name**

SPLG – on behalf of

**Title** **Mr**

**Surname**

Rodden

**Forename**

Brian

### *2. Postal Address*

Strathclyde Pension Fund
Floor 6 – Capella Building
60 York Street
Glasgow

| | | |
|---|---|---|
| **Postcode** G2 8JX | **Phone** - | **Email** brian.rodden@glasgow.gov.uk |

### *3. Permissions* - I am responding as…

**Individual** / **Group/Organisation**

*Please tick as appropriate* X

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate* ☐ Yes ☐ No

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available ☐

*or*

Yes, make my response available, but not my name and address ☐

*or*

Yes, make my response and name available, but not my address ☐

**(c)** The name and address of your organisation ***will be*** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your ***response*** to be made available?

*Please tick as appropriate* X Yes ☐ No

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate* XYes ☐ No

**OFFICIAL - SENSITIVE: Commercial**

1. Early payment of pension at age 55 - these regulations allow deferred members of earlier schemes to elect for early payment of their benefits between age 55 and 60 without needing their former employer's consent. This also applies to pension credit members who were awarded the credit under the Earlier Schemes to be able to elect to receive their benefits early, at a reduced rate, on or after age 55.

Agreed. The group welcome this amendment and agree it delivers the policy intent that a member must have ceased their respective employment to access benefits in respect of that employment.

The group agree that all deferred beneficiaries, and in addition pension credit members, should have the same rights in respect of when benefits can be accessed.

2. Calculation of 'the Underpin' - the regulations also clarify how to carry out the calculation of the protection known as 'the underpin', taking into account the actuarial increase/reduction when considering the better of the two benefit options for the member on retirement.

The group are of the opinion that this amendement is bringing forward only one part of the proposed McCloud solution. We therefore question why do so now, as opposed to delay until the other McCloud changes are legislated?

By announcing changes have been made, administering authorities envisage they will be pressurised into processing recalculations, which at present are on hold until software developers arrive at the necessary solution.

The group collectivley feel that introducing all McCloud amendments at the same time is a more pragmatic approach to intermittently introducing new provisions. Such an approach will remove any potential duplication of work when the McCloud remedy is in place.

3. Survivor Benefits Walker & Goodwin Judgements - the regulations amend the calculation of survivor partner pensions so that surviving civil partners, survivors of married same-sex couples and male survivors of female married members are placed in a similar position to female survivors of male married members.

1. The group collectivley agree with the proposed changes which arise as a result of both the Walker vs Innospec and Mrs Goodwin vs Department of Education rulings, with the ultimate aim that all survivors are placed in the same position.

The group are of the opinion however that by introducing measures only for deaths which occurred after 5th December 2005, the scheme remains open to challenge from survivors who do not benefit from the proposals as currently framed.

The group are therefore of the collective opinion that the changes being proposed should apply to all survivors, not just those where the member's death occurred from 5th December 2005 onwards.

2.The group are concerned that the intention to amend survivvor's benefits for cohabiting partners only applies where the member's death took place on or after 1st April 2015. It is understood that survivor's benefits for 'post leaving' marriages only considers membership from 6th April 1978, and that the proposed amendment is intended to replicate this provision.

The circular states:
'*Also, it is Scottish Ministers' intention that where a member died after 31 March 2015 leaving behind a cohabiting partner who qualifies for survivor benefits, the survivor benefits should be based on all their membership (not just membership after 5 April 1988) if the cohabiting partnership was entered into before the member left active membership of the scheme, putting such survivors in the same position as other types of survivor. We understand that 2014 Regulations do not deliver this intention. We are therefore also amending these regulations to deliver the policy intent. The amendment will have effect for deaths that occurred on or after 1 April 2015'*

The group believe that the actual regulation restricts the entitlement to pre leaving marriages/partnerships. The group are of the opinion that this is unfair and open to challenge. The regulations do not appear to view marriage and partnership as the same thing. E.g. if a person was in a partnership before leaving the scheme and married their partner after leaving the scheme, entitlement would only be from 6th April 1978. Had they never married entitlement would now be all membership.

In short, the group are of the opinion that ;
- All survivors should be treated the same, and
- All membership is included when survivor benefits are calculated

Doing so would ensure the Regulations are watertight and not open to further challenge.

4. Further Flexibilities for Fund Authorities - these regulations provide further flexibilities for fund authorities in dealing with employers and allow for amendments to an employer 's contribution rate in between valuations.

The group welcome the efforts to allow further flexibilities for administering authorities when dealing with employer cessations.
It is the intention however that where required, individual responses will be submitted by administering authorities in relation to this proposed amendment.

5. Cost Cap - in order for GAD to finalise the result of the 2017 valuation, the cost cap figure is amended, with retrospective effect, to 1 April 2015.

| |
|---|
| The group have no particular comments on this proposed amendment. |

Thank you for your comments.