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Submitted to Local Government Pension Scheme in England and Wales - Access and Fairness
Submitted on 2025-07-31 19:31:54

Introduction

About you

What is your name?

What is your name?:
Gary McLellan (on behalf of Cambridgeshire County Council / Cambridgeshire Pension Fund)

What is your email address or phone number

Email address:
gary.mclellan@westnorthants.gov.uk

Phone number:

Are you responding to this consultation as an individual or submitting a collective response from a group?

Individual

Type of respondent

Administering authority

If other please state:

What is the first part of your post code?

First part of your post code:

NN1

If responding on behalf of a group, what is the name of the group or organisation you are submitting a response for?

name of group or organisation:

If submitting a collective response, please provide a summary of the people or organisations your represent and who you have consulted to reach your responding conclusions

Summary of people or organisations represented:

Glossary

Chapter 1 - Survivor Benefits

Survivor Pension Entitlement Equalisation

Q1 - Do you agree with the government's proposed amendment of survivor benefits rules?

Yes

Comments on the amendment of survivor benefits rules:

Yes, we are supportive of the proposals that remove the discrimination based on sexual orientation that currently exists in the LGPS.

Q2 - Do you have any comments on the intended approach to equalising survivor benefits?

Comments on intended approach to equalising survivor benefits:

We agree with the proposals to backdate the changes to the date the underlying relationship type was recognised in UK law. The discrimination would not be fully removed from the Scheme if this were not done.
We think statutory guidance should set out the Government’s view on:
• whether it is appropriate to recover an overpaid child’s pension where a partner’s pension becomes payable retrospectively. An overpayment can occur because children receive a higher level of pension where no partner’s pension is payable.

• the tax implications where a dependant’s pension has been trivially commuted, but it would not qualify for trivial commutation following recalculation.

Q3 - Do you have any comments on the administrative impact, particularly in identifying cases where calculations of past benefits would need to be revisited?

Comments on administrative burden:

Identifying affected survivors will be challenging.
There will be some cases where the pension in payment will need to be increased due to more membership counting towards the calculation of the survivor pension. This will apply where membership from an earlier period is now included and / or additional membership such as ill health enhancement and added years now counts.
However, there will also be some cases where no survivor benefit was previously payable but will be after the changes. This could occur where a female member only had membership before 6 April 1988. These records may have been archived and may not show any relationship status due to no survivor pension being payable at the time. Tracing any potential beneficiaries in these cases will be difficult. Relatives may be upset if they are approached to find out the relationship status of such members, especially if it turns out there is no eligible survivor benefit payable.
There will be cases where the survivor has died and there is potential for causing distress to relatives, particularly where the additional amount payable is very small.
There may be instances where the estate will need to be reopened, and a supplementary grant of probate applied for and / or new administrators appointed. There may also be tax implications where survivor benefits have been trivially commuted previously.
The administrative impact will be significant. Widowers of opposite sex marriages will be most impacted by the changes; given the membership of the LGPS nationally is 74 per cent female, these reforms will affect many more people than previous changes to survivor benefits.
As an administering authority we will need to undertake work to:
• identify potential cases
• recalculate the survivor pension entitlement going forward
• calculate arrears of pension due including interest
• locate potential beneficiaries where no pension is currently being paid.
Any backdating work is complex from an administrative perspective as significant manual intervention will be needed in most cases to establish the relevant rates and arrears payable including the application of annual pensions increase.

Q4 - Do you have any further comments on the proposed changes?

Any further comments on the proposed changes:

Identifying affected survivors will be challenging.
There will be some cases where the pension in payment will need to be increased due to more membership counting towards the calculation of the survivor pension. This will apply where membership from an earlier period is now included and / or additional membership such as ill health enhancement and added years now counts.
However, there will also be some cases where no survivor benefit was previously payable but will be after the changes. This could occur where a female member only had membership before 6 April 1988. These records may have been archived and may not show any relationship status due to no survivor pension being payable at the time. Tracing any potential beneficiaries in these cases will be difficult. Relatives may be upset if they are approached to find out the relationship status of such members, especially if it turns out there is no eligible survivor benefit payable.
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Cohabitee Survivor Pensions

Q5 - Do you agree with the government's proposals to formalise the removal of the nomination requirement?

Yes

Q6 - Do you have any comments on the government’s proposals to formalise the removal of the nomination requirement?

Please expand:

We agree it is helpful for legislation to reflect the correct legal position.

Q7 - Do you have any comments on the proposed approach to backdating?

Comments on proposed approach to backdating:

We agree with the decision not to backdate cohabiting partners' pensions for members who left the Scheme before 1 April 2008 for the reasons set out in the consultation.

Death Grants (age 75 cap)

Q8 - Do you agree to the proposed amendments on death grants?

Yes

Q9 - Do you have any comments on the government's proposals to remove the age 75 cut-off from the LGPS Regulations?

Comments on proposals to remove age 75 cut-off:

We agree that the age 75 cap on paying a death grant should be removed from the regulations. We think having an age cap is likely to be unlawful age discrimination and the policy could be successfully challenged in the courts at a future date if it were not removed.

Q10 - Do you have any comments on the proposed approach to backdating?

Comments on approach to backdating:

Overriding legislation has allowed for death grants to be paid for deaths after age 75 since 6 April 2011, so it would be appropriate to backdate the removal of the cap so that this applies to deaths on or after that date rather than 1 April 2014 as in the proposal.

Q11 - Do you have any comments on the administrative impact, particularly in identifying historic cases where death grants that were not paid would now be paid?

Comments on administrative burden:

The identification of cases should be relatively straightforward, however, locating beneficiaries and deciding to whom the death grant should be paid will be difficult in some cases.
The delay in introducing this change inevitably means it will be harder to find the appropriate recipients and some of those recipients will have died.
In order to exercise the administering authority's discretion appropriately will involve asking relatives / dependants questions about potential beneficiaries long after the member's death.
There may be instances where the estate will need to be reopened, and a supplementary grant of probate applied for and / or new administrators appointed.
The LGPS regulations currently require that the death grant is paid to the personal representatives if it is not paid within the two-year period. We understand the proposal in this consultation to remove that requirement will apply to cases where a death grant will be payable retrospectively due to the age 75 cap being removed. This is important as it will allow any unpaid death grants to be taxed as the beneficiaries' income rather than at 45 per cent where payment is not made to the personal representatives.

Death Grants (personal representatives)

Q12 - Do you agree with the proposal to remove the two-year limit?

Yes

Q13 - Do you have any comments on the government's proposal to remove the two-year limit?

Comments on the proposal to remove the two-year limit:

Yes, we agree that the requirement to pay the death grant to the personal representatives after the end of the two-year period should be removed. This will align the LGPS regulations with the overriding legislation which changed in 2015.
We also agree that the change should apply to all death grants that have not been paid when the legislation takes effect. This will allow administering authorities to pay a death grant to a beneficiary rather than to a personal representative - meaning the death grant will be taxed at the recipient's marginal rate, rather than the special lump sum death benefit charge of 45 per cent applying.
It is important this also applies to backdated death grants that become retrospectively payable due to the age 75 limit being removed to ensure they are not taxed unfairly.

Authorised Absences Under 31 Days

Q14 - Do you agree that the LGPS Regulations should be updated so that any unpaid leave under 31 days is pensionable, as a way to address the gender pension gap?

Yes

Please explain the reasons for your view.:

Yes, we support this proposal. We understand that women are more likely to take periods of authorised unpaid leave due to childcare and other caring responsibilities. Taking short periods of leave is particularly common for school support staff who work term-time only and are expected to take their leave during school holidays. If a member needs to take time off during term-time to look after a sick child or other dependant, this is likely to be unpaid.

The current process that allows a member to buy back pension 'lost' in an unpaid period may be considered cumbersome, particularly in cases where only a very small amount of pension has been 'lost'. The employer meets part of the cost, but only if the member makes their application within 30 days of returning to work after the break.
Making short periods of authorised unpaid leave pensionable will stop members, particularly women, from having short pauses in their pension build-up.
Lower paid members whose personal circumstances have led to them taking a longer unpaid break from work may face financial hardship. We do not believe that pension contributions should be compulsory during a longer break. This could lead to lower paid members opting out of the LGPS to avoid the financial burden of compulsory contributions. We agree with the proposal for pension contributions to remain optional for longer unpaid periods.
We think that the Government should consider whether 30 days is the correct threshold.
An employee who takes 30 days of unpaid leave in April, for example, would generally receive no pay from which the compulsory contributions could be deducted. These unpaid contributions would roll over as a debt to the following month when the member would effectively pay twice the normal level of contributions. This is also more complicated to administer on payroll.
Setting a lower limit, 14 days for example, would ensure that, for an employee who is paid monthly or four-weekly, the compulsory member contributions could be collected in the same pay period as the unpaid leave deduction. We believe setting a lower threshold would still meet the Government's objectives. Many 'short' breaks are only one, two or three days. Pension contributions would remain compulsory for these very short breaks. Members would be less likely to opt out if contributions are compulsory for a shorter period and could generally be collected in a single pay period.
Reducing the limit to 14 days would also avoid some administrative complexities for payroll providers.
The change to compulsory contributions for short unpaid periods would also reduce the administrative burden on administering authorities. Under the current rules, we must record the dates of these breaks, check that any additional pension contribution contract to buy the 'lost' pension has been calculated correctly, record that contract and check that the additional contributions have been paid. Under the new proposals, none of this would be necessary for short breaks.
The proposals would represent a significant change for employers and payroll providers. However, these new processes would replace the current requirement for employers to provide the member with information about buying back 'lost' pension after each period of unpaid leave.

Q15 - Do you agree the government should use the actual lost pay option when calculating contributions, or do you think APP should be the chosen option? Please explain the reasons for your view.

Yes

Please explain the reasons for your view.:

We agree with using lost pensionable pay instead of APP in this circumstance. In our view, for most members, using lost pensionable pay will more closely match the position the member would have been in had they not taken unpaid leave.
Similar, but not identical, rules covering compulsory contributions during a break of less than 31 days were in place before 1 April 2014. At that time, the contributions were based on 'lost' pay as APP was not introduced to the Scheme until 1 April 2014. The lost pensionable pay method is used in LGPS Scotland with no reported issues. This means payroll software will already be programmed to deal with this method, and it is likely to be simpler for payroll providers to implement.

Cost of Buying Back Pension Lost in an Unpaid Break of Over 30 Days

Q16 – Do you agree with the proposal to align the cost of buying back unpaid leave over 30 days with standard member contribution rates?

Yes

Please explain the reasons for your view:

We agree in principle with aligning the cost of buying 'lost' pension with the contributions that would have been paid by the employer and employee had the member been at work receiving their normal pay. We also agree in principle with aligning the added pension the member buys with the normal pension they would have accrued. This necessitates changes to the regulations covering redundancy / efficiency retirement and the calculation of survivor pensions.
However, we understand the policy is for the added pension the member buys to be aligned with the normal pension they would have accrued only if they elect to buy it within a year of returning to work (or a longer period allowed by the employer). Where a member elects to buy back lost pension after this period, the current method will apply, i.e. they will pay the full cost which will be based on age related factors, it will not provide survivor pensions or be paid unreduced on redundancy / efficiency retirement.
Please see our response to question 14 relating to the threshold at which an authorised unpaid period is 'short' (perhaps 14 days) and pension contributions are compulsory, and above which an unpaid period is 'long' and pension contributions are optional.
We do not believe that this change would represent a significant increase in employer costs. Although we hope that the change will encourage more members to elect to buy back pension 'lost' in an unpaid period, the cost to the employer is the same as they would have paid, had the member been at work receiving their normal pay.
We do have concerns about the administrative challenge posed by this proposal though.
Different rules will apply to added pension purchased to boost pension compared with added pension purchased to cover pension 'lost' in an unpaid period. Pension administration systems will need to treat added pension differently depending on:
• whether the extra contributions were paid to boost benefits or buy 'lost' pension
• in the case of lost pension, when the leave occurred, as opposed to the date the APC contract started
• whether or not the member started the contract to buy back 'lost' pension within a year of returning to work (or a longer period allowed by the employer).
This will be particularly important for members with more than one APC contract, and for those members with a period of authorised absence that spans the date on which these regulations come into force.
This information must be recorded in such a way that it can be shared and interpreted correctly if the member ends that period of LGPS membership and re-joins the Scheme with a different administering authority. There is a risk of the member's pension, or a survivor pension being underpaid if the information is not correct or clear when a transfer occurs. This risk is greater if the two administering authorities use different pension administration

systems.
Administering authorities will need comprehensive guidance on transitional measures, particularly around what happens if a member's break covers both the period immediately before and after the date the regulations take effect.

Q17 - Do you agree with the proposal to change the time-limit for buying back unpaid leave pension absences from 30 days to 1 year?

Yes

Please explain the reasons for your view:

Employers must meet part of the cost of the extra pension when the member elects to start the arrangement within a specified period after they return to work. We support extending this period from 30 days to a year; however, we think this should be subject to the member still being employed by the same employer when they make the election.
If a member has been on authorised unpaid leave for an extended period, we think 30 days is too short a period to make such a decision and navigate the application process.

Q18 – Do you agree with removing the three-year limit on employer contributions in Regulation 15(6)?

No

Please explain the reason for your view.:

We are not aware of the existing 3 year limit causing any issues so see little reason to remove it.
Removing it could lead to unintended consequences and exacerbate the already unclear position regarding the limit on the amount of additional pension an individual can buy when that limit increases each scheme year and some members have or have had multiple APC and ARC across one or more separate employments which may have ended before the purchase(s) had completed. Whether the 3 year limit is removed or not, guidance to provide clarity on the operation of the limit on the amount of additional pension an individual can buy across multiple current and legacy arrangements would be appreciated.

Pension Contributions During Child-Related Leave

Q19 – Do you agree with updating the definition of child-related leave to include all periods of additional maternity, adoption and shared parental leave without pay?

Yes

Please explain the reasons for your view:

Yes, in principle, as an administering authority,
Scheme employers would however be bearing the cost and we have therefore distributed the consultation to them so that they may respond as they see fit.

Making Gender Pension Gap Reporting Mandatory in the LGPS

Q20 – Do you agree that gender pension gap reporting should be mandatory in the LGPS?

Yes

Please explain the reasons for your view:

We agree that gender pensions gap reporting should be mandatory in the LGPS.

Q21 – Do you agree that the 2025 valuation (and associated fund annual reports) is preferable?

No

Please explain the reasons for your view:

We agree that using the report accompanying the triennial valuation to report the gap is a better option than the annual report.
Any narrowing of the gap will take time. Reporting annually would be a significant exercise which would be disproportionate based on the change in the gap that we would expect to see annually. Reporting on the gender pensions gap every three years is a more appropriate timeframe.
We would question, however, whether everything will be in place to enable reporting as part of the 2025 valuation, and whether deferring to the 2028 valuation would be more appropriate.

Q22 - Do you agree with the threshold of 100 employees for defining which employers must report on their gender pension gap?

No

Please explain the reasons for your view:

We do not believe that the threshold for reporting on the gender pension gap should be set at 100 employees.
Pay plays a significant role in the gender pension gap. Companies with more than 250 employees are already required to report on the gender pay gap within their organisation. Knowing the level of gender pay gap at an organisation will help to understand the gender pensions gap. This information may not be available for organisations with less than 250 employees.
On this basis we recommend that reporting is required based on the number of LGPS members employed by a Scheme employer and the threshold be set at 250 rather than 100.

Q23 – Do you agree with the gender pension gap definition being 'the percentage difference in the pension income for men and women over a typical working life'?

I am unsure

Please explain the reasons for your view:

We have concerns about using the definition in the LGPS. We believe more work is needed to define this term. Without detailed information about how this will be measured and what assumptions should be used, we have concerns about our ability to report consistently on the gender pension gap as part of the 2025 valuation.

Q24 – Do you agree with the gender pension savings gap being 'the percentage difference in the pension savings accrued over one year for men and women'?

I am unsure

Please explain the reasons for your view:

In our view, this is a more useful measure to identify any movement in the underlying trend. No policies or measures can alter the pension that a member has already built up. We understand that, at least for the 2025 valuation, it may only be possible to report on the career average pension built up in a year. If that is the case, changes in final salary benefits may not be measured. What will have an impact are changes that reduce the gap between the average pension built up by men and women each year.
We and other stakeholders will need detailed guidance on how to measure the gender pension savings gap. That should set out exactly what should be included. For example, pension transfers received in the year should not be included, as these do not represent an increase in the member's pension. Added pension purchased or awarded in the year should be included, as they do represent an increase in the member's pension.
We would encourage further discussions between the Government actuary's department, MHCLG and fund actuaries on solutions that will improve this measurement in the future and ensure that appropriate detailed guidance is issued.

Publication of Opt-Out Data in the Annual Report

Q25 - Do you agree that the annual report is the best method of reporting data on those who choose to opt-out of the scheme?

Yes

Please explain the reasons for your view:

On balance, we agree that the annual report is an appropriate method of reporting opt out data. However, it would also be useful to have a national picture of opt out rates and we wonder whether the data should also be reported centrally by MHCLG using the SF3 data collection.
Although the LGPS Scheme Advisory Board (SAB) currently uses the individual fund annual reports to collate a Scheme annual report, it is always at least 12 months out of date by the time it is published. Annual reports do not have to be published until 1 December following the end of the Scheme year, and it then takes around five months for the data from the individual fund reports to be consolidated into the Scheme annual report.
The SF3 data release is typically published between August and October following the end of the Scheme year. If this was also a vehicle for reporting opt out data, the national picture would be available much quicker. This would allow the Government to be more responsive to any significant changes in opt out rates.

Q26 - Do you foresee any issues with administering authorities' ability to gather data on opt-outs?

Yes

Please explain the reasons for your view:

The ability of us as an administering authority to gather data on opt outs relies entirely on our scheme employers' ability to supply that data.
We will not know of all optants out and will also not know which employees are eligible for membership of the LGPS in our Fund.
In order for MHCLG and the administering authority to have up to date information on opt out rates, this must be supplied by employers.
Our preference would be for our scheme employers to be required to supply the relevant opt out data to us as the administering authority annualy, with an amendment to Regulation 80 of the LGPS Regulations 2013 to cover this.
We do have some concerns about employers' ability to provide the data. It is not as simple as working out the difference between the total number of employees and the total number of employees contributing to the LGPS, with the difference being the number of members who have opted out. In reporting the figures, employers will need to distinguish between:
• 'genuine' opt outs - employees who have opted out of the LGPS
• employees with a contract of less than three months who have not opted to join the LGPS, and have not been automatically enrolled
• employees who are over age 75 and therefore not eligible for LGPS membership
• employees who are eligible for membership of a different pension scheme. Certain local government employees are eligible for membership of a

different public service pension scheme. Employees of an admitted body may be members of, or eligible to join, a defined contribution pension scheme such as NEST.

Q27 - When updating the annual report guidance to reflect opt-out data collection, what information would be most useful to include?

What guidance information would be most useful :

Reporting opt out rates will allow a comparison of rates across administering authorities and allow employers to benchmark their position with the average in their region. This will only be meaningful if all employers and administering authorities are reporting in exactly the same way.
Employers and administering authorities will need clear guidance on:
• Whether to report at individual or post level
An individual may hold multiple posts with the same employer concurrently and may choose to opt out in respect of one or more of those posts without affecting their LGPS membership in a different post. For simplicity, we recommend reporting at post level.
• The reporting period
We understand that reporting will be based on the position on a particular day. We support this proposal as it is easier to administer and will require less guidance.
• How to treat workers with who are not contractually enrolled into the LGPS
Employees with a contract for less than three months are not contractually enrolled into the LGPS when their employment starts. This group will include casual
workers. They may opt to join, subject to eligibility rules, and some workers may join the Scheme under automatic enrolment rules. Employers will be heavily reliant on payroll providers to report on opt out numbers. Contract information of this type must be held by the employer but may not be recorded on the payroll system.
Payroll providers may not be able to distinguish between a casual worker and an employee with no fixed working hours who does have an ongoing contract for more than three months. The Government will need to decide which groups must be included in the opt out data. This will include a decision on whether to include employees with no fixed working hours. They will also need to consider whether to include a member who is not contractually enrolled (because their contract is for less than three months), but joins the Scheme through automatic enrolment or opting in.
• Infrequent working
There are members without fixed hours who remain 'active' on the payroll system, but do not work for months or even years. We believe it would be appropriate to exclude these members when reporting on opt out data to give more accurate and meaningful results. This would need to be covered in the guidance.
We suggest that a member (or non-member) with no fixed hours should only be included in the opt out data if they have received some pay in the Scheme year, for example. We recommend using a relevant date later in the Scheme year. This will help to 'weed out' individuals who have had an extended period during which they did not receive any pay, but it will not affect those whose work is concentrated at a particular time of year. Payroll providers will need some time to prepare for these changes. Choosing a date later in the Scheme year will also give them more time to prepare for this new requirement.

Collection of Additional Opt-Out Data

Q28 - Do you agree with the proposal to collect additional data about those opting out of the scheme?

Yes

Please explain the reasons for your view:

We recognise the importance of individuals saving towards retirement and that the LGPS is an important tool to attract people to and retain them in local government employment. If certain groups do not consider themselves able to join the LGPS, it is important that the Government can understand who is affected and their reasons for opting out. This information could influence Scheme changes and communications to encourage participation among groups who are currently more likely to opt out of the Scheme. To achieve that end, we support the Government's proposal to use a secure, anonymous GOV form to gather additional data centrally when any member opts out without requiring involvement from administering authorities.

Q29 - Are you an employer, part of an administering authority or member of a pensions board?

Part of an administering authority

Q30 - Do you have any comments on the collection of additional information?

Comments on the collection of additional information:

No comment beyond the administering authority do not wish to be involved in the collection of the additional data.
We do not need to process personal data about members who opt out of the LGPS and do not have a lawful basis for collecting special categories of personal data eg ethnicity and religion, to pay the correct level of benefits to those who are Scheme members.

Removing the Requirement That a Member Must Have Left Employment Because of the Offence

Q31 – Do you agree that the government should amend regulations 91 and 93 of the 2013 Regulations to remove the requirement that the member must have left employment because of the offence in order for an LGPS employer to be able to make an application for a forfeiture certificate or to recover against a monetary obligation?

Yes

Please explain the reasons for your view:

Yes, we support this change. In our view, forfeiture applications should be allowed where the employee left employment before the offence was discovered. Employees should not be able to resign when they think they are under investigation to prevent their pension being forfeited. Similarly, if an employee is convicted of an offence years after leaving, the employer should be able to apply for a forfeiture certificate.

Removing the Time Limit to Make a Forfeiture Application

Q32 - Do you agree that the three month time limit for an LGPS employer to make an application for a forfeiture certificate should be removed?

Yes

Please explain the reasons for your view:

Yes, we agree the extra flexibility will help employers make applications. We also agree that applications should only be submitted following sentencing. We support the Government in encouraging employers to make applications in a timely manner and suggest the forfeiture guidance should include this.

Revoking regulation 92

Q33 - Do you agree that Regulation 92 of the 2013 Regulations should be revoked?

I am unsure

Please explain the reasons for your view:

No comment on this specifically, as it is unclear how Regulation 92 is intended to operate at present, however it would be helpful for MHCLG to confirm what action administering authorities should take where they receive an application from a member to either take their pension benefits, transfer out or trivially commute for whom:
• an employer has applied for a forfeiture certificate, or
• a forfeiture certificate has been issued but the employer has not issued a forfeiture direction.

Forfeiture in Relation to Benefits Accrued in Earlier Schemes

Q34 - Do you agree that in order to give full effect to the proposed amendments, equivalent modifications should apply to earlier schemes?

Yes

Please explain the reasons for your view:

Yes. The change should be applied consistently to all members regardless of when they left the LGPS. This is particularly important for historic crimes that cause serious harm to the state and damage to the reputation of councils.

Forfeiture Guidance

Q35 - Do you agree that there should be forfeiture guidance to assist employers in making applications?

Yes

Please explain the reasons for your view:

Yes. This is very important for the policy to be applied consistently and correctly.
Forfeiture is, thankfully, not a common occurrence in the LGPS so employers will not be familiar with the process. Having guidance that sets out a clearly defined process with a template application form will help with the administrative process and ensure the Secretary of State only receives appropriate applications.

Divorce Credits

Q36 - Do you agree with the government's proposal for pension debits and credits?

I am unsure

Please explain the reasons for your view:

In principle, we agree that where benefits awarded to the ex-partner increase due to McCloud remedy, the member's benefits should be used to fund that increase. However, we think the delay in legislating for this outcome means it may now be too difficult to implement retrospectively where a pension entitlement has been paid.
Reducing benefits and seeking to reclaim overpayments will inevitably cause complaints.
Whilst we expect the number of cases, and the size of any overpayments, to be small, each case will require significant administration in terms of recalculations, communications, reclaiming overpayments and dealing with potential complaints.

We suggest MHCLG considers either:
• not requiring these pension debits to be recalculated where an entitlement to a payment occurred* before the date the amending regulations come into effect, or
• not requiring that any of these pension debits be recalculated.
*An entitlement to payment occurs when the member retires, trivially commutes, transfers out or dies.

Deaths on 30 September 2023

Q37 - Do you agree with the Government's proposal to cover deaths on 30 September 2023?

Yes

Please explain the reasons for your view:

Interest on Club Transfers

Q38 - Do you agree with the government's proposal to clarify if interest applies on Club transfers?

Yes

Please explain the reasons for your view:

Interest on Part 4 Tax Losses

Q39 - Do you agree with the government's proposal to include part 4 tax losses in to the 2023 regulations?

Yes

Please explain the reasons for your view:

Transfers from Other Public Service Schemes for Members Over 65 Years Old

Q40 - Do you agree with the government's proposal for transfers from other public service schemes for members over 65 years old?

Not Answered

Please explain the reasons for your view:

Chapter 6 - Other Regulation Changes

Q41 - Do you agree with the proposal to omit Regulation 50 and the equivalents to it (to the extent that they have been preserved) in the 1997 and 2008 Regulations?

Yes

Please explain the reasons for your view:

Q42 - Do you agree with the proposal to withdraw the actuarial guidance linked to Regulation 50?

Yes

Please explain the reasons for your view:

Yes, although the lifetime allowance factors will need to be retained as these are used for annual allowance scheme pays debits for active members over NPA, and when the member's retirement is already being processed.

Q43 - Do you agree with the proposal to amend the definition of BCE in the 2013 Regulations?

Yes

Please explain the reasons for your view:

The definition of a 'benefit crystallisation event' in section 216 of the Finance Act 2004 was repealed by paragraph 3 of schedule 9 to the Finance Act 2024. Paragraph 13(4) of schedule 9 defined the term in schedule 32 to the Finance Act 2004. Both of these amendments took effect from 6 April 2024. Amendment regulations 39(a) and 43(1)(b) will amend the LGPS Regulations to reflect this with effect from the date the Amendment Regulations come into effect. However, we would have expected these changes to have had backdated effect from 6 April 2024, to align with the changes to the Finance Act 2004.

Q44 - Do you agree with the proposed approach to PCELSs?

Please explain the reasons for your view:

Yes

Q45 - Do you agree with the proposed approach to issue updated actuarial guidance on the treatment of PCELSs?

Yes

Please explain the reasons for your view:

Yes. Practical guidance to clarify the contracting out constraint / limit would be appreciated.

Q46 - Do you agree with the proposed amendments to the Regulations?

Yes

Please explain the reasons for your view:

Yes, we agree in principle with proposed amendments in this section. Some of the changes have been long awaited eg 5-year refunds, de minimis payments, the changes to AVCs. These changes will bring benefits to both members and administrators.
Other changes are more technical in nature and are being introduced to tidy up the regulations and make them compliant with overriding and other legislation.
We encourage MHCLG to review scheme regulations more regularly in future to avoid the risk of legal challenges and ensure members and beneficiaries receive the benefits they are entitled to.

Q47 - Do you have any comments on the proposals in this chapter?

Do you have any comments on the proposals in this chapter:

We make the following limited comments on the proposals:
- AVCs and transfers: we would support backdating the amendment to 6 April 2015.
- 5-year refunds:
a) we do not agree that a member should lose their right to any payment at all if payment is not paid before they reach age 75.
b) We strongly recommend that the amendments should instead apply to all refunds paid after the date the Amendment Regulations come into effect.

Chapter 7 - Administrative Impact of Proposals

Q48 - Do you have any comments about the impact the combined proposals in this document will have on administration?

Comments about the impact the combined proposals will have on administration:

We recognise that changes the Government has proposed in this consultation would have a positive impact on members and their dependants. These include changes necessitated by legal decisions that occurred many years ago, and amendments that us as an administering authority and the Scheme Advisory Board have been recommending for many years.
We welcome the Government's attention to these issues that have been long neglected.
That being said, we do have concerns about the ability of us as an administering authority, pension software suppliers and payroll providers to prepare for so many Scheme changes in a short space of time.
Our resources are stretched due to major ongoing projects including McCloud rectification and preparation for pension dashboards. These changes also demand significant resources of pension software suppliers as they develop, test and introduce upgrades and new features. There are significant problems in recruiting and retaining experienced staff across administering authorities, which makes it difficult to implement multiple changes affecting many different aspects of the Scheme.
Any retrospective changes pose a particular challenge. We welcome MHCLG's proposal to issue guidance on the steps that administering authorities should take to pay any additional payments related to the new rules that are proposed for death grants and survivor pensions.
We urge the Government to be mindful of the pressures on administering authorities before further significant changes to the LGPS are planned. We are supportive of changes that result in a better outcome for LGPS members. But if the pace of change is such that administering authorities and software suppliers do not have time to develop, test and implement software updates, create new and amended processes and write updated member communications, this will impact negatively on member outcomes across the Scheme. We encourage the Government to consider this issue in planning the timing and complexity of future Scheme amendments.
We understand that MHCLG have been regularly reminded since 2022 that the LGPS Regulations must be amended in advance of the increase to the Normal Minimum Pension Age (NMPA) in April 2028. Changes are needed to the LGPS Regulations to ensure that LGPS members can plan their retirement with confidence and without any unwanted tax implications. The policy may also have implications for members making decisions on transferring pension rights with a protected pension age to the LGPS. We recognise the importance of making these changes in a timely manner to provide certainty to Scheme members. In our view, the Government should take a pragmatic approach to these changes, and adopt an approach that involves the lowest level of complexity and is therefore least disruptive to administrators.

Q49 - Are there any areas where you believe the proposals are significantly more complex and would benefit from a later implementation date?

Are there any more complex areas that would benefit from a later implementation date:

Yes, there are two areas where we think a later implementation date may be appropriate.
• Opt out reporting – We support the Government's plan to introduce a requirement for reporting on opt out rates. We hope that the results can be used to develop initiatives to encourage employees who have opted out or are thinking about opting out to participate in the Scheme, which will have a positive impact on pension adequacy. However, such reporting and comparison across employers and administering authorities is only meaningful if there is clear guidance on exactly what they are required to report and all employers and administering authorities are interpreting that guidance consistently.
More work is needed to set out clearly what data Scheme employers need to provide. We believe the LGPS Regulations should be amended to introduce a requirement for Scheme employers to provide this information to administering authorities, not just a requirement for administering authorities to report on the total across all Scheme employers in their fund.
Once the data needed has been clearly defined, we understand that employers may need to undertake a significant exercise to 'label' individual payroll records to indicate whether a member is eligible for membership of the LGPS or not. This may be necessary to ensure, where a member is not in any pension scheme, they are only included in the data if they are eligible to join the LGPS.
We recommend a later implementation date for this policy to give payroll providers and employers sufficient time to make the changes needed.
• Gender pension gap reporting – Similar to the position for opt out reporting, it only makes sense to report on the gender pension gap if all administering authorities and actuaries interpret the rules in exactly the same way. There is still some work to do to make sure that this is achieved and that the results are meaningful.
Gender pension gap reporting is important, but it is most important to be able to track the change in the gap over time. It may be possible to report a very basic figure as part of the 2025 Valuation. However, it is likely that a more sophisticated methodology will be developed over time. It may not be useful to compare a basic figure from 2025 with figures calculated in future years based on a different methodology. We think MHCLG should consider introducing reporting at a later date to ensure that meaningful results that can be tracked over time are produced.

Q50 - Do you have any comments on the proposed approach to cost?

Comments on approach to cost:

Chapter 8 - Public Sector Equality Duty

Q51 - Do you consider that there are any particular groups with protected characteristics who would either benefit or be disadvantaged by any of the proposals? If so, please provide relevant data or evidence.

Not Answered

Please explain the reasons for your view:

Contact

Q52 - Do you agree to being contacted regarding your response if further engagement is needed?

Yes