

2018 No. 1366

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Miscellaneous
Amendment) Regulations 2018**

<i>Made</i> - - - -	<i>13th December 2018</i>
<i>Laid before Parliament</i>	<i>18th December 2018</i>
<i>Coming into force</i> - -	<i>10th January 2019</i>

These Regulations are made in exercise of the powers conferred by sections 7 and 12 of the Superannuation Act 1972^(a) and by section 1 of, and paragraph 12 of Schedule 3 to, the Public Service Pensions Act 2013^(b).

In accordance with section 7(5) of the Superannuation Act 1972, the Secretary of State consulted such associations of local authorities as appeared to the Secretary of State to be concerned; the local authorities with whom consultation appeared to the Secretary of State to be desirable; and such representatives of other persons likely to be affected by the Regulations as appeared to the Secretary of State to be appropriate.

In accordance with section 21 of the Public Service Pensions Act 2013, the Secretary of State has consulted the representatives of such persons as appeared to the Secretary of State to be likely to be affected by these Regulations.

The retrospective provisions contained in these Regulations do not appear to the Secretary of State to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme established by the Local Government Pension Scheme Regulations 2013^(c) or the schemes preserved by the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014^(d), nor in any other way in relation to members of those schemes. Accordingly, the procedures set out in section 23 of the Public Service Pensions Act 2013 are not applicable in respect of these Regulations.

In accordance with section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury.

(a) 1972 c. 11. Section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(b) 2013 c. 25.
(c) S.I. 2013/2356.
(d) S.I. 2014/525.

The Secretary of State makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Miscellaneous Amendment) Regulations 2018.

(2) These Regulations come into force on 10th January 2019, save for the following regulations which have effect as follows—

- (a) regulation 4 has effect from 17th April 2018;
- (b) regulation 5 has effect from—
 - (i) 5th December 2005 in respect of a surviving civil partner of a member; and
 - (ii) 13th March 2014 in respect of a surviving spouse of a same sex marriage with a member^(a).
- (3) These Regulations extend to England and Wales.

Amendment of the Local Government Pension Scheme Regulations 2013

2. In regulation 2 (introductory) of the Local Government Pension Scheme Regulations 2013^(b), after paragraph (3) insert—

“(3A) The Secretary of State may issue guidance to administering authorities on the administration and management of the Scheme.

(3B) Before preparing or revising guidance under paragraph (3A), the Secretary of State must consult such persons as he considers appropriate.”.

Amendment of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

3. The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014^(c) are amended in accordance with regulations 4 and 5.

4. In regulation 3 (membership before 1st April 2014) for paragraph (5A)(a) substitute—

“(a) regulation D11 of the 1995 Regulations (entitlement to deferred retirement benefits) has effect as if—

- (i) in paragraph (2)(d) the words “has ceased to be employed in local government employment” were omitted;
- (ii) in paragraphs (2)(d) and (4) the references to age 60 were substituted with references to age 55;
- (iii) in paragraph (3)—
 - (aa) the reference to employing authority were substituted with references to administering authority;
 - (bb) the words “given within the period of three months beginning with the relevant date” were omitted;
- (iv) in paragraph (4)(a) “or after” were inserted after “on”;
- (v) paragraph (4)(b) were omitted; and

(a) Regulation 17(17) of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, as inserted by regulation 5(e) of this instrument, defines “surviving civil partner of a member” and “surviving spouse of a same sex marriage with a member”.

(b) Those Regulations have been amended by S.I. 2014/44, S.I. 2014/525, S.I. 2014/1146, S.I. 2015/57, S.I. 2015/755 and S.I. 2018/493.

(c) S.I. 2014/525. These Regulations have been amended by S.I. 2015/755 and by S.I. 2018/493.

- (vi) references to an employing authority were read as including a former employing authority which is now a Scheme employer, or where a member's employing authority or former employing authority has ceased to be a Scheme employer, the appropriate administering authority.”.

5. In regulation 17 (survivor benefits)—

- (a) after paragraph (9)(b) insert—

“(c) subject to sub-paragraphs (d) and (e), any calculation of the survivor pension payable under the Earlier Regulations to a person who is the surviving civil partner of a member or who is the surviving spouse of a same sex marriage with a member is to be on the basis that the survivor is a widow, irrespective of the sex of the member;

(d) in respect of a calculation under sub-paragraph (c) where the member left under a scheme to which the 1995 Regulations or the 1997 Regulations apply and died before 1st April 2014, any reference to contracted out membership is to be read as including contracted in membership;

(e) sub-paragraph (c) does not apply where the member died before 1st April 2014 and whose survivor benefit fell to be determined under the Benefits Regulations.”;

- (b) omit paragraphs (11)(a) and (c);

(c) in paragraph (11)(b), for “survivor” substitute “male survivor”;

- (d) for paragraphs (12) and (13) substitute—

“(12) Any calculation of any survivor pension payable under the Earlier Regulations is only to take account of membership accrued by that member after 5th April 1978 where—

(a) a member enters into a civil partnership or same-sex marriage after leaving active membership and dies; or

(b) a male deferred member, deferred pensioner member or pensioner member marries and dies leaving a female survivor.

(13) Notwithstanding paragraph (9)(c), for the purposes of paragraphs (10) and (12), membership includes—

(a) any membership that would have counted for the purpose of F8(3) of the 1995 Regulations or by virtue of regulation 4A(2) of the 1997 Transitional Regulations;

(b) relevant additional membership that would have counted as membership for the purposes of regulations 42 and 42A of the 1997 Regulations (reduction of some surviving spouses' and civil partners' pensions);

(c) membership that would have counted under regulations F3, F4 or F5 of the 1995 Regulations by virtue of F6 of those Regulations; and;

(d) any membership purchased under regulation 14A(59) of the Benefits Regulations (elections to pay additional contributions: survivor benefits).”; and

- (e) after paragraph (16) insert—

“(17) In this regulation—

“surviving civil partner of a member” means a person who, at the time of a member's death, was in a civil partnership with the member; and

“surviving spouse of a same sex marriage with a member” means a person who, at the time of a member's death, was married to the member.”.

We consent to making of these Regulations

Craig Whittaker
Rebecca Harris

12th December 2018

Two of the Lords Commissioners of Her Majesty's Treasury

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Rishi Sunak

Parliamentary Under Secretary of State

13th December 2018

Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (“the Transitional Regulations”). Both sets of regulations came substantively into effect on 1st April 2014 and certain provisions listed in regulation 1 take effect from that date. Section 12(1) of the Superannuation Act 1972 and section 3(3)(b) of the Public Service Pensions Act 2013 provides that scheme regulations may make retrospective provision.

Regulation 2 enables the Secretary of State to issue guidance to administering authorities. Regulation 4 amends the Transitional Regulations to remove the requirement for an employer to give consent for a member to elect for early payment of benefits where that member left with deferred benefits before 1st April 1988 and is aged between 55 and 59. Regulation 5 amends the Transitional Regulations to make provision for survivor pensions in the scheme constituted by the 2013 Regulations (“the 2013 scheme”), where the survivor was a civil partner or a same sex spouse of the deceased member.

An impact assessment has not been produced for this instrument as no impact is anticipated on the private or voluntary sectors.

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Department for
Communities and
Local Government

Addresses
Overleaf

As

Our
Ref:

Your
Ref:

29 April 2016

Dear Pension Manager,

Local Government Pension Scheme: Actuarial Guidance

1. Regulation 2(3) of the Local Government Pension Scheme Regulations 2013 provides that the Secretary of State may, after consultation with the Government Actuary's Department, issue actuarial guidance to administering authorities.

2. I am authorised by the Secretary of State to publish revised guidance on:

- Individual transfers
- Pension Credits on Divorce
- Pension debits on divorce
- Pensioner cash equivalents on divorce
- Early retirement
- Scheme pays/ Annual Allowance
- Trivial commutation
- Interfund transfers
- Purchase of Additional Pension
- AVC conversion to Additional Pension
- Inverse commutation
- Flexible Retirement
- LTA and limit on total amount of benefits

3. I understand that the LGA plan to publish these at <http://www.lgpsregs.org/index.php/dclg-publications/dclg-stat-guidance>. Hard copies are also available, on request, from Robert.Ellis@communities.gsi.gov.uk. I can confirm that the guidance has been subject to consultation with the Government Actuary's Department as required by Regulation 1(2) of the 2013 Regulations.

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London
SW1P 4DF

4. The guidance is to apply immediately. A further letter providing details on transitional arrangements for quotations provided before this date will be sent early next week together with a list of extant guidance.

5. Guidance on late retirements will also follow next week.

Yours faithfully,

Bob Holloway

**Pension managers in England and Wales
Local Government Association
Scheme Advisory Board
UNISON
GMB
UNITE
SPPA
Government Actuary's Department**

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Years Early	Pension Reduction (%) -		Retirement Grant	
	Males	Females	Members	Reduction (%) - All
0	0.0%	0.0%	0.0%	0.0%
1	5.1%	5.1%	2.3%	2.3%
2	9.9%	9.9%	4.6%	4.6%
3	14.3%	14.3%	6.9%	6.9%
4	18.4%	18.4%	9.1%	9.1%
5	22.2%	22.2%	11.2%	11.2%
6	25.7%	25.7%	13.3%	13.3%
7	29.0%	29.0%	15.3%	15.3%
8	32.1%	32.1%	17.3%	17.3%
9	35.0%	35.0%	19.2%	19.2%
10	37.7%	37.7%	21.1%	21.1%
11	41.6%	41.6%		
12	44.0%	44.0%		
13	46.3%	46.3%		

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Cc: Jeff Houston; Lorraine Bennett; Jayne Wiberg; Con Hargrave

Subject: Written Statement on Cost Cap Arrangement

Caution: External email. Think before clicking links or opening attachments.

Dear Pension Committee and Local Pension Board Chair

The Government has today published a written statement which announces a pause in the cost cap process for public service pension schemes pending the outcome of the application to appeal the McCloud case to the Supreme Court. A copy of the judgement can be found here <https://www.judiciary.uk/wp-content/uploads/2018/12/lord-chancellor-v-mccloud-and-ors-judgment.pdf>

The statement can be found here : <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-01-30/HCWS1286/>

Although the statement gives no timescales for the outcome of this case we understand it could be late 2019 or early 2020 before we know.

The LGPS Advisory Board (SAB) will now consider whether, given this announcement, it should withdraw the benefit change recommendations made to MHCLG as a result of its own cost cap process.

We understand that the LGPS could, if McCloud is upheld, be required to make changes to the underpin and that such changes would need to be taken into account in a revised SAB cost cap result.

In taking a view, the SAB will be aware that delaying benefit changes to possibly 2020 while backdating them to April 2019 would constitute a significant administrative burden on administering authorities and employers. Although SAB will immediately start considering next steps it should be stated that even if the SAB wishes to press on any changes to benefits can only be made with the agreement of Government.

Therefore although administering authorities may wish to continue to prepare for the SAB recommended cost cap benefit changes (as set out in our email of the 21st December) they should not anticipate their implementation unless and until such time as MHCLG formally consult on them.

Jeff Houston
Head of Pensions
Local Government Association
18 Smith Square, London SW1P 3HZ|

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Local Government Pension Scheme Advisory Board

SAB Cost Management

Context

1. Cost management for the LGPS in England and Wales is taking place in the context of a public service pension scheme wide cost cap review under HM Treasury directions. In the other schemes indicative outcomes have seen breaches of the cost cap floor requiring benefit improvements in excess of 3% of payroll.
2. The closest comparable public service scheme undergoing the cost cap process this year is LGPS in Northern Ireland which has recently commenced a consultation on a benefit improvement package costing 3.2% of payroll.
3. LGPS in England and Wales has a separate cost management process which is completed prior to finalisation of the HMT cost cap calculations.

Board cost management outcome

4. At the Board meeting of the 10th October it was noted that, subject to agreement by government to return the scheme design to that agreed in 2013 by the employers and scheme members in relation to the annual revaluation of CARE benefits, the outcome of the Board's cost management process was a total scheme future service cost of 19%. As the target for the process is 19.5% the Board agreed to consider recommendations to return the total cost back to the target.
5. It was further agreed that a Board sub group consisting of the Chair, Vice Chair and an employer representative would consider a package of benefit improvements sufficient to return the total cost back to 19.5% and such further changes to employee contributions within that total cost necessary to obtain the support of both employer and employee representatives of the Board.
6. The Board agreed that options for changes to benefits should be limited to Third Tier Ill Health, Lump sum death grants, Early Retirement and Commutation. These being elements which were both of interest to scheme members and affordable within the 0.5% target cost increase. Any changes to employee contribution rates were to be targeted principally at the lowest bands but also seeking to address existing anomalies with regard to pension tax relief at both the personal and higher rate allowance points.

Consideration of options

7. In order to provide the Board sub group with the information necessary to come to a view a small technical group consisting of representatives of both scheme member and employers as well as the secretariat was formed. This group received actuarial input (in the form of technical advice from MHCLG's GAD adviser and independent actuarial advice from the Board's actuarial adviser) and legal views from Eversheds (in particular with regard to potential discrimination issues) and considered a number of options around the elements agreed by Board.

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8. The secretariat also held discussions with LGPS actuarial firms in order to get a very broad feel of the potential actual impact at fund and employer level of the various options.
9. The following proposals were put to the Board for agreement.

Ill health

10. That the removal of the third tier of ill health (costed on the assumption that tier 2 would be awarded in these cases) should be recommended.

Death in service

11. That due to the high cost and low perceived benefit a small improvement to the existing lump sum death in service benefit (3 x pay) for all members was not appropriate for recommendation. However a targeted improvement via the introduction of a minimum payment of £75,000 (per member) was.

Early Retirement

12. A number of options on enhanced early retirement factors were considered including limiting the enhancements to various groups of members or sections of the scheme. Following legal opinion on the potential for challenge to a number of options on the grounds of age discrimination two options were put forward to the Board; application of equal enhancement to all members in all sections of the scheme and targeted enhancements to final salary section benefits.

Commutation

13. Given the potential cost of a membership wide increase together with the potential for confusion and administrative overhead of limiting commutation improvements to a particular group of members or section of the scheme this option was not considered to be a priority and therefore no recommendations were made to the Board in this area.

Employee contributions

14. Based on costing information provided, six options for changes to employee contribution rates were considered. The objective for the options was to find one that most closely met the dual ambition of removing tax relief anomalies (where net contributions are lower after an increase in pay because of the effect of pension tax relief) and providing a real reduction for the lowest paid members.

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15. The option that most closely met these ambitions was agreed to be;
- A new 2.75% band at pay of £0 to £12,850. This new band reflects the lack of any pension tax relief for levels of pay below the new personal allowance.
 - An expansion in size but reduction in rate of the current band 2 (5.8%). This would now go from £12,501 to £22,500 and be at a rate of 4.4% benefitting lower paid members.
 - An expansion of the top of current 6.8% band from £45,200 to £53,500 to reflect the increases in the higher rate tax allowance since the bands were introduced in 2014.
16. It was also proposed to the Board that moving the bands out of regulation and into guidance would in future years enable a more effective tracking of changes to pension tax relief as well as providing a more effective and speedier means to meet the target yield.
17. The Board sub group considered these options and obtained agreement by the employee and employer representatives on the Board.

Recommendations of the Board

18. The following package of benefit improvements and employee contribution reductions were submitted to the Secretary of State on 16th November. Since then discussions of taken place with the minister and his team and further legal and equality impact advice has been obtained.
- a) Removal of Tier 3 of Ill Health (amendments required to Regulation 35)
 - b) A minimum lump sum death in service benefit of £75,000 per member (amendments required to Regulation 40)
 - c) Enhanced early retirement factors for all members who are active on 1st April 2019 in respect of their final salary linked membership only. Following further legal advice obtained by Government an amendment to this recommendation was agreed and submitted on 12th December. The recommendation now is that, within the same cost envelope, enhanced early retirement factors should be applied to all service of all members active on 1st April 2019 (new actuarial guidance required).
 - d) Removal of contribution bands from regulations replaced by reference to guidance (amendments required to Regulation 9)

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e) Introduction of the bands shown below for 2019-20 (new guidance required)

Band	Pensionable Pay from £	Pensionable Pay to £	Contribution rate
1	0	12,850	2.75%
2	12,851	22,500	4.4%
3	22,501	36,500	6.5%
4	36,501	53,500	6.8%
5	53,501	64,600	8.5%
6	64,601	91,500	9.9%
7	91,501	107,700	10.5%
8	107,701	161,500	11.4%
9	161,501		12.5%

Estimated financial impact of the package

19. The revision back to revaluation of pension accrued to the start of the scheme year is estimated to be a **reduction** in the future scheme cost of 0.4% of payroll.
20. This package of recommended benefit improvements is estimated to **increase** the total future service cost of the scheme by 0.5% of payroll.
21. Within that total it is estimated that the reduction in the employee contribution yield as a result of the new bands will be 0.8% of payroll in 2019-20 with a potentially equivalent **increase** in employer contributions.
22. All other things being equal the above package would see net increases in average employer future service rates of 0.9% of payroll.
23. However all other things are not equal and few employers pay the average rate therefore the actual impact for each scheme employer will depend on the outcome of the 2019 valuation process and in particular;
 - The view taken by the fund actuaries of the costs of each element of the package
 - The membership profile of each employer; with those with higher paid full time staff possibly seeing a smaller upward pressure on contributions and conversely those with a very large proportion of staff earning less than £12,000 potentially seeing a much higher upward pressure possibly in excess of 2%.
 - The extent to which the costs are mitigated by other factors such as the falling away of future longevity increases

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- The extent to which the costs are amplified by other factors such as reductions to future service discount rates
- The upward or downward pressure of changes to employer deficits on the total employer rate

Next steps on Board cost management

24. It was hoped that agreement could have been reached with MHCLG on these recommendations and a consultation launched before Christmas. For a number of reasons this has not proved possible, however, it is anticipated that such a consultation will be published in late January/early February for regulations to take effect from 1st April.
25. The Board has made representations to MHCLG and HM Treasury that meeting the implementation date of 1st April 2019, will be significantly challenging for administering authorities and have proposed putting back the implementation date if possible. However, indications are that due to the requirements placed on all public service pension schemes the 1st April implementation date will not be changed
26. The Board has strongly suggested to MHCLG that -
 - (a) the consultation be as short as is possible and
 - (b) a letter of comfort is issued as soon as is legally possible to allow administering authorities and software providers to anticipate the changes to regulations and employers to implement new contribution rates.
27. In the meantime, the Board advise that authorities begin preparations for the above changes including taking a view on advising their employers of the proposed contributions rates. Without preempting regulatory changes it may be prudent to put in place the necessary preparations to avoid changing bands on 1st April under current regulations then retrospectively making further changes to bands and rates resulting in contribution overpayments. Doing so could enable employers to take immediate and full advantage of any letter of comfort issued prior to regulations in this area.
28. You may also wish to make employers and members aware of the proposed changes to ill health and early retirement with effect from 1st April so that decisions can be made in light of the proposals.
29. The Board secretariat will contact software suppliers and major payroll providers to assess the changes required to systems to implement these proposals. In particular to determine the most effective way to introduce enhanced early retirement factors with the absolute minimum impact on administrative processes.
30. The secretariat will review the NI database to ensure it can provide the necessary membership information to ensure that minimum death in service lump sums are appropriately limited where multiple active membership records exist across funds.
31. The secretariat will also work with fund actuaries to ensure the proposed changes are able to be appropriately accounted for in the coming valuation.

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32. At its last meeting the LGPS Technical Group, consisting of representatives from the regional Pension Officer Groups (POGs), agreed to form a working group early in the New Year to further assess the administrative implications of the proposals and provide information and advice to administering authorities.

Next steps on MHT cost cap

33. The HMT cost cap process will be completed once the outcome of the above proposals and subsequent consultation is known.
34. If the proposals are not accepted by government either prior to or following a consultation then the HMT process will complete without having to take account of any changes to scheme design when determining if the cost floor has been breached.
35. If the proposals are accepted and submitted for legislation, the HMT process will take the changes into account when determining if the cost floor has been breached.
36. In either case if the cost floor is breached changes to benefits will be required under the terms of the Public Service Pension Schemes Act 2013.

Jeff Houston

Secretary to the Local Government Pension Scheme Advisory Board (England and Wales)

If you have any questions please contact the Board Secretariat on any of the following email addresses. Please note you will get an out of office from the team over the Christmas period but your email will be picked up and will be responded to as quickly as possible.

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21st December 2018



Ministry of Housing,
Communities &
Local Government

Local Government Pension Scheme: Fair Deal – Strengthening pension protection

Policy consultation



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Scope of the consultation

<p>Topic of this consultation:</p>	<p>This consultation seeks views on proposals to amend the rules of the Local Government Pension Scheme in England and Wales, as set out in the draft Local Government Pension Scheme (Amendment) Regulations 2019 (Annex A). It covers the following areas:</p> <ol style="list-style-type: none"> 1. Amendments that would require service providers to offer LGPS membership to individuals who have been compulsorily transferred from an LGPS employer (and remove the option of a broadly comparable scheme). 2. Proposals that would automatically transfer LGPS assets and liabilities when employers in the scheme are involved in a merger or takeover.
<p>Scope of this consultation:</p>	<p>MHCLG is consulting on changes to the regulations governing the Local Government Pension Scheme (LGPS).</p>
<p>Geographical scope:</p>	<p>These proposals relate to the Local Government Pension Scheme in England and Wales only.</p>
<p>Impact Assessment:</p>	<p>Our Fair Deal proposals will strengthen the pensions protections that apply following an outsourcing and it is intended that all transferred staff of relevant LGPS employers will benefit equally from the new provisions. We do not believe our proposals will have an adverse impact on any section of the LGPS employer workforce, and believe they will have equal positive impacts on groups with and without particular protected characteristics. This is including in relation to staff who work flexibly, part-time or who have taken career breaks. This is because our reforms are intended to equalise pensions rights between those who have and have not been outsourced from their LGPS employer, with them all having continued access to membership of the LGPS.</p> <p>None of the changes contained in this consultation require a Regulatory Impact Assessment under the Small Business, Enterprise and Employment Act 2015. Our Fair Deal proposals will require bodies who provide services to LGPS employers to provide employees with continued access to the LGPS following a transfer. For a small number of transfers, there may be some additional costs associated with outsourcing staff under the new provisions. This may be the case where an LGPS employer is not currently subject to the 2007 or 2012 Directions (see paragraph 8), but it is proposed they would be subject to our new regulations. Nevertheless, we expect this to apply in a minority of situations and only to outsourcings from public bodies or publicly owned companies.</p>

	<p>Additionally our proposals to introduce a new way for contractors to participate in the LGPS (the 'deemed employer' approach) are intended to give greater flexibility to outsourcing employers which will potentially help them obtain better value from their contracts. For contractors, the proposals are intended to give them greater certainty on the pensions costs they will face over the life of the contract.</p> <p>The proposals in chapter 3 that provide for the automatic transfer of assets and liabilities where an employer is subject of a merger or takeover are intended to protect LGPS funds from the unintended consequences of organisational changes. They are also intended to give greater certainty to all parties about the responsibility for pensions liabilities after such events.</p>
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Basic Information

<p>To:</p>	<p>This consultation is particularly aimed at those with an interest in the obligations that apply when a service or function is outsourced from an LGPS employer, including employees, outsourcing employers, and service providers.</p> <p>Any change to the LGPS is likely to be of interest to other stakeholders as well, such as local pension administrators, those who advise them, other LGPS employers and local taxpayers.</p>
<p>Body/bodies responsible for the consultation:</p>	<p>Local Government Finance Reform and Pensions, Ministry of Housing, Communities and Local Government</p>
<p>Duration:</p>	<p>This consultation will last for 12 weeks from Thursday 10 January 2019 to Thursday 4 April 2019.</p>
<p>Enquiries:</p>	<p>For any enquiries about the consultation please contact LGPensions@communities.gov.uk.</p>
<p>How to respond:</p>	<p>Please respond by email to:</p> <p>LGPensions@communities.gov.uk</p> <p>Alternatively, please send postal responses to:</p> <p>LGF Reform and Pensions Team Ministry of Housing, Communities and Local Government 2nd Floor, Fry Building 2 Marsham Street London SW1P 4DF</p> <p>When you reply it would be very useful if you could make it clear which questions you are responding to. Additionally,</p>

	<p>please confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p>
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- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post-code),
- an email address, and
- a contact telephone number.

Chapter 1 – Introduction

1. The Ministry of Housing, Communities and Local Government (MHCLG) consulted in May 2016¹ on the introduction of greater pensions protection for employees of LGPS employers who are compulsorily transferred to service providers. The 2016 consultation proposed that, in line with the Government's Fair Deal guidance of October 2013², most LGPS members in this position should have continued access to the LGPS in their employment with the service provider. In doing so, it was proposed that the option to provide transferring staff with access to a broadly comparable scheme should be removed.
2. On 19 April 2018, the Government response to the consultation confirmed our commitment to introduce the strengthened Fair Deal in the LGPS but noted that respondents to the 2016 consultation had raised a number of concerns regarding the specific approach we proposed to adopt. We said we would give full consideration to the points raised and committed to consult on new proposals by the end of the year.
3. Chapter 2 of this document sets out our new policy proposals for introducing Fair Deal in the LGPS, which will enable LGPS employers to obtain better value from outsourced service contracts, and ensure that transferred employees retain the security which comes with membership of the LGPS, a statutory scheme with benefits set out in law. We welcome comments from respondents on our questions.
4. We are also taking this opportunity to consult on another change to the rules of the LGPS (as set out in more detail in Chapter 3). This change would provide for the automatic transfer of LGPS assets and liabilities to a successor body when an exiting LGPS employer is taken over or is part of a merger.
5. Your comments are invited on the questions contained in chapters 2 and 3 and the set of draft regulations at Annex A.
6. **The closing date for responses on the draft regulations at Annex A, and the related questions in Chapters 2 and 3, is Thursday 4 April 2019.**

¹ <https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations>

² <https://www.gov.uk/government/publications/fair-deal-guidance>

Chapter 2 – Fair Deal

7. The Government's 'Fair Deal' policy was introduced in 1999 and sets out how pensions issues should be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services. Under the original Fair Deal guidance, transferred staff had to be given access to a scheme certified as being 'broadly comparable' to their previous public service pension scheme.
8. Following the publication of the Government's original Fair Deal guidance, pensions protection for local government employees in England and Wales was provided through:
 - the Best Value Staff Transfers (Pensions Direction) 2007 ('the 2007 Direction' - covering employees of English best value authorities and Welsh Police authorities), and
 - the Welsh Authorities Staff Transfers (Pensions) Direction 2012 ('the 2012 Welsh Direction' - covering employees of Welsh improvement authorities and community councils).
9. Under these Directions, protected employees who are contracted out to a new employer following the transfer of a service or function must be given either continued access to the LGPS by their new employer, or access to a scheme certified by an actuary as 'broadly comparable' to the LGPS.
10. The Government announced in July 2012 that the Fair Deal policy would be reformed. Under the 'new' Fair Deal policy, staff transferring from the public sector would have continued access to their public service pension scheme rather than being offered a broadly comparable private pension scheme, as was previously the case.
11. HM Treasury published its revised Fair Deal guidance in October 2013³. It covers central government departments and their agencies, the NHS, schools that are not local authority maintained (such as academies), and any other parts of the public sector under the control of Ministers where staff are eligible to be members of a public service pension scheme.
12. As set out in the Introduction, the Government now intends to introduce the strengthened Fair Deal in the LGPS. The proposed reforms will mean that independent providers will no longer have the option of providing transferred staff with access to a broadly comparable scheme. Instead, employees will always have continued access to the LGPS. This strengthens existing protections significantly. Protected employees will have increased confidence and security in knowing that, despite their transfer, they will retain a right to all the benefits that come with membership of the LGPS, not least that it is a statutory scheme with benefits set out in law. Moreover, so long as the protected employees remain wholly or mainly employed on the delivery of the service or function

³ <https://www.gov.uk/government/publications/fair-deal-guidance>

transferred, they will continue to have that protection even if the service is subsequently sub-contracted or transferred out again.

13. Responses to the 2016 consultation were mixed. Whilst many respondents were supportive of our aims in providing transferred staff with continued access to the LGPS, there were a variety of concerns on the detail of the proposals. More detail on the issues raised are contained in the Government's April 2018 response, but they can be summarised as concerns:

- regarding the employers to which our Fair Deal regulations would apply.
- that those already transferred out under the 2007 Direction would not have continued protection.
- that the proposals did not refer to the protections that apply in Wales (i.e. the 2012 Welsh Direction).
- that the regulations were a missed opportunity to consider introducing more explicit risk sharing provisions.
- that continued use of the admitted body framework could lead to a growing administrative burden for LGPS administrators.
- the lack of guidance.

14. In the following sections, we set out the detail of new proposals which are intended to address each of those concerns in turn and provide the framework for a workable, efficient system of pension protection.

The basics of Fair Deal in the LGPS

Protected transferees

15. The draft regulations apply in both England and Wales. They provide for the introduction of a new regulation 3B in the LGPS Regulations 2013⁴. Under this, an LGPS employer must ensure that protected transferees are given access to membership of the LGPS for so long as they remain a protected transferee and have an entitlement to membership of the scheme. A protected transferee is an individual who:

- a. is an active member or is eligible to be an active member of the LGPS,
- b. was employed by a Fair Deal employer (as defined) immediately before that person's employment was compulsorily transferred under a contract to a service provider in relation to the delivery of a service or a function of the Fair Deal employer.

16. A protected transferee will remain a protected transferee for so long as they remain wholly or mainly employed on the delivery of the service or function transferred, even if the service is subsequently sub-contracted or otherwise transferred to a different service provider.

⁴ S.I. 2013/2356 (as amended)

17. Where an employee is transferred out to an employer which offers membership of another public service pension scheme, the draft regulations provide that they would not be eligible for the LGPS but that they would remain a protected transferee. This ensures that if, following a re-tender, they are subsequently transferred to a new provider which does not offer a public service pension scheme, they do not lose their protection.
18. Service providers and Fair Deal employers may wish to consider offering the same status and protection to all staff who are providing a service as part of contract negotiations, whether or not they were previously employed by the Fair Deal employer. The draft regulations therefore also provide that an employee who is working wholly or mainly on the delivery of the service or function transferred may be treated as a protected transferee even if they were not formerly in the employment of the Fair Deal employer. However, protection for additional staff who are not covered by Fair Deal will remain subject to contract terms. The draft regulations therefore provide that protected transferee status for staff will require the agreement of both the Fair Deal employer and the service provider and it is proposed either party can determine at any time that such an individual is no longer a protected transferee.

Question 1 – Do you agree with this definition?

Fair Deal employers

19. The draft regulations define a new type of scheme employer, a 'Fair Deal employer'. As defined, Fair Deal employers are those LGPS employers whose employees will have protected access to the LGPS following a compulsory transfer of the type outlined above.
20. Some respondents to the 2016 consultation queried our approach on the employers covered by Fair Deal. One concern raised was regarding consistency. It was suggested that it was inconsistent for further and higher education institutions who participate in the LGPS to be excluded on the grounds that they are non-public sector bodies⁵, whilst admission bodies, the majority of whom are also non-public sector bodies, would be covered by the requirements. Aside from those admission bodies who participate in the LGPS in relation to the transfer of a service or function ('transferee' admission bodies), admission bodies are bodies who normally participate in the LGPS because of close links with a local authority or because they provide a public service ('community' admission bodies). They include charities, housing associations and other non-public sector bodies, and are not required to participate in the LGPS.
21. In light of the concerns raised, it is proposed that admission bodies which undertake an outsourcing will have the option of requiring service providers to offer continued access to the LGPS as they do now, but will not be obliged to do so. Whilst we are committed to ensuring that public sector workers who are eligible for the LGPS are protected after being outsourced, we do not wish to limit the freedom that non-public sector

⁵ In the terms set out by the Office for National Statistics, <https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/datasets/publicsectorclassificationguide>

organisations can reasonably expect in the total package they offer to their staff, including pay and pension.

22. Other respondents felt that the employees of police and crime commissioners (PCCs) worked in the public sector and should be protected under our Fair Deal regulations. In the 2016 consultation, we said that PCCs should not be required to follow Fair Deal because they are not best value authorities. However, in order to be consistent with the approach we are taking for local government and noting the concerns made by respondents to our previous consultation, it is now proposed that employees of PCCs are in the scope of the new regulations, in the same way as is proposed for employees of chief constables.

23. In light of the points noted above, under our draft regulations all LGPS scheme employers will be Fair Deal employers with the exception of:

- further education corporations, sixth form college corporations and higher education corporations (i.e. post-1992 universities), and
- admission bodies.

As they do now, contractors providing services to the organisations listed above will be able to provide access to the LGPS to transferred staff via entering into an admission agreement with the pension fund (subject to meeting requirements and with the agreement of the contracting employer), but there would be no obligation for them to do so under scheme regulations.

Question 2 – Do you agree with this definition of a Fair Deal employer?

Transitional arrangements

24. It is important to the Government that those who have previously worked in local government and who are protected under either the 2007 Direction or 2012 Welsh Direction do not lose out from the changes we are making. Our draft regulations therefore provide that when contracts that fall under the 2007 Direction or 2012 Welsh Direction are next re-tendered, protected staff will become protected transferees under the LGPS Regulations 2013 and gain a right to membership of the LGPS.

25. This level of protection goes beyond the current requirements of the 2007 and 2012 Directions, which provide that service providers have the option of providing staff with access to a broadly comparable scheme instead. It is our intention to take the necessary steps to ensure that staff who were transferred out under the 2007 Direction or under the 2012 Welsh Direction gain the improved protections the next time a contract is re-tendered. We will work with the Welsh Government on transitional arrangements to deliver this in relation to transfers that have taken place under the 2012 Direction.

26. Transferred employees who were entitled to pension protection under the 2007 Direction or the 2012 Direction and were given access to a scheme certified as broadly comparable to the LGPS will have a right to transfer their benefits from that scheme to the LGPS if the fund receives a request. Under our draft regulations, such transfers would be treated as individual transfers under existing provisions contained in

regulations 100 and 101 of the LGPS Regulations 2013. We propose that the value of transfers be calculated using Cash Equivalent Transfer Value (CETV) factors contained in actuarial guidance issued by the Secretary of State. CETV factors are issued to convert the transfer value received by an LGPS fund to an amount of career average pension on an actuarially neutral basis. This approach is intended to ensure that inward transfers are calculated using an established process that is fair to scheme members, scheme employers and local taxpayers.

Question 3 – Do you agree with these transitional measures?

Question 4 – Do you agree with our proposals regarding the calculation of inward transfer values?

Risk sharing

27. A significant issue highlighted by respondents to the 2016 consultation was in relation to risk sharing, sometimes known as 'pass-through'. Pass-through is a mechanism for limiting a service provider's exposure to pensions risk as a scheme employer. As the LGPS is a funded, defined benefit pension scheme there are a number of risks which scheme employers are exposed to, in particular:

- Contributions risk – employer contribution rates are assessed every three years via a funding valuation. If the valuation shows that the financial or demographic position of the employer, or both, has changed since the previous valuation, contribution rates can go up or down.
- Funding risk – when an employer's last active member leaves the LGPS, any deficit that has built up in relation to the employer's liabilities has to be paid to the LGPS fund by the scheme employer. For service providers, these deficits can be quite large, even by reference to the total value of the contract.

Under pass-through, a service provider may pay a fixed contribution rate for the life of the contract, or pay the contributions within a certain range. The outsourcing employer may retain the responsibility for any shortfall in contributions, as well as the benefit of any surplus.

28. There are a number of benefits to using a pass-through approach:

- For the service provider, they do not necessarily bear the risks listed above. This makes their cost/benefit analysis when considering bidding or a contract more straightforward. We are aware that for small and medium service providers in particular, pensions risk is a significant barrier, and can mean they do not bid for contracts they otherwise would, because they cannot bear the risk of significant contribution rate increases or of the risk of a large exit payment being required at the end of the contract.
- For the Fair Deal employer they do not have to pay the 'risk premium' which service providers sometimes build into their contract prices. Because of contributions risk and funding risk, we understand that service providers often build a buffer into their prices to ensure that it is still profitable for them to operate a contract even if, for example, LGPS contributions end up being much higher than originally stated.

Using pass-through removes the need for such a buffer (and should therefore mean Fair Deal employers get better value for money).

The 'deemed employer' approach

29. We are aware that some LGPS employers already use pass-through arrangements with their service providers where greater flexibility assists outsourcing. However, in light of the views expressed in the responses to the 2016 consultation we want to ensure that Fair Deal employers actively consider the potential benefits of including risk sharing provisions in their service contracts. To achieve this, we are proposing that service providers do not necessarily need to become admission bodies in the LGPS to participate in the scheme. Instead, 'deemed employer' status could be used instead.
30. Deemed employer status is available under the LGPS Regulations 2013 already (see the table in part 4 of schedule 2). It means that, for specific groups of employees, their 'scheme employer' in the LGPS is not their employer in employment law, but is the 'deemed employer' instead. For example, under the LGPS Regulations 2013, the 'deemed employer' for the employees of voluntary schools is the associated local authority.
31. Under our proposals, when an employee is compulsorily transferred from their Fair Deal employer to a service provider, their former employer will have the option of remaining the deemed employer for the transferred staff.
32. Using this approach, the service provider would not have full scheme employer responsibilities under the LGPS Regulations 2013. Instead, the default position would be that the Fair Deal employer would retain the majority of scheme employer responsibilities (including contributions and funding risk). However, we envisage that this would only be a starting point, and the service contract between the parties would cover the detail of the pensions relationship, including the sharing of risk.
33. With appropriate provisions in the service contract, deemed employer status will give Fair Deal employers like local authorities greater flexibility when transferring services and functions to external providers. This will enable them to achieve the benefits of pass-through while enabling flexibility for negotiations around price and risk sharing between the two parties.
34. In addition, a major benefit of this approach is that it will provide a more seamless transition for LGPS members. A frequent issue under the current system is that a contract commences before the admission agreement is signed, leaving members in limbo for long periods of time. Under the deemed employer approach, members would continue in the section of their Fair Deal employer and there would be no uncertainty regarding their pension rights. Administering authorities would also benefit from not having to backdate admission agreements or seek to enforce these retrospectively.
35. The deemed employer approach will also help to tackle a growing issue in the LGPS; the large and rising number of scheme employers (over 16,000 across the scheme in England and Wales), which causes administrative issues at a local level. Making use of deemed employer status would slow the rate of increase and could therefore have administrative benefits for LGPS pension funds.

36. Using deemed employer status may also give greater flexibility to contractors in how they account for their pensions obligations. Currently, contractors who participate in the LGPS via an admission agreement but who have entered into pass-through arrangements may have to account for their liabilities on a defined benefit basis (even though their obligations are more akin to defined contribution liabilities). The deemed employer approach may enable a different accounting treatment because the legal responsibility would remain with the Fair Deal employer.
37. Using deemed employer status in this way has potential risks for Fair Deal employers because it means they are, by default, responsible for the pension liabilities which would, under an admission agreement, automatically be the responsibility of the service provider. However, the Fair Deal employer would be able to protect itself from these risks by including detailed provisions on the pensions relationship between the Fair Deal employer and the service provider in the service contract.
38. The draft regulations state that advice will be issued by the LGPS Scheme Advisory Board (SAB) to help Fair Deal employers put in place service contracts which give them flexibility and protect them from potential risks. We will want to ensure that this advice gives Fair Deal employers the knowledge and confidence they need to outsource services in a way that provides them with value and gives increased certainty to service providers. We will work closely with the SAB on the development of this advice, and expect that it will be issued before or at the same time the Fair Deal regulations are issued.
39. The draft regulations also provide that the deemed employer approach can only be used by the proprietor of an academy where that proprietor has followed guidance on the use of the deemed employer approach given by the Department for Education. Guidance issued by the Department for Education will set out the provisions that must be included in the service contract between a proprietor of an academy and a service provider to protect the proprietor, and ultimately the Department for Education, from pensions risks which should in all cases be met by the service provider.

Question 5 – Do you agree with our proposals on deemed employer status?

Question 6 – What should advice from the scheme advisory board contain to ensure that deemed employer status works effectively?

Responsibilities for employers

40. In practice, even where the deemed employer approach is used, the service provider will retain an administrative role in relation to the pensions of their employees. As the legal employer, they will be responsible for deducting employee contributions and providing information to the pension fund (for example, for end of year processing). To ensure that the actions of the service provider do not prevent the Fair Deal employer from meeting their responsibilities, the draft regulations state that the service provider must provide sufficient and timely information to enable the Fair Deal employer to meet its scheme functions. We anticipate that this point will be addressed in more detail in advice issued by the Scheme Advisory Board.

41. We are also keen to ensure that, unless service contracts explicitly provide otherwise, responsibility for certain decisions that may give rise to costs arising is retained by the service provider, as well as the responsibility for meeting those costs. In particular, the draft regulations provide that the service provider shall retain the decision-making responsibility for decisions where costs may be payable under regulation 68 of the LGPS Regulations 2013. This covers a variety of costs, including ill-health, redundancy, flexible retirement and the award of additional pension.

Question 7 – Should the LGPS Regulations 2013 specify other costs and responsibilities for the service provider where deemed employer status is used?

Existing arrangements

42. Whilst we believe there are significant advantages of making use of deemed employer status, we propose that the admission body option is retained so that Fair Deal employers can choose to require their service providers to become full scheme employers in the LGPS if they wish. This approach may be more appropriate for larger, longer term contracts where it is more fitting for a service provider to have full employer responsibilities under the LGPS regulations.

43. To make clear that risk sharing practices can also be used where the admission body option is used, our draft regulations insert a paragraph into part 3 of schedule 2 of the LGPS Regulations 2013 confirming that admission agreements may also contain details of risk sharing arrangements agreed between the Fair Deal employer and the service provider. We anticipate that advice issued by the SAB will contain detail on the provisions that may be put into an admission agreement on risk sharing between the parties involved.

Question 8 – Is this the right approach?

Timely consideration of pensions issues

44. An issue that is frequently raised with regard to outsourcing by LGPS employers is the lack of priority given to pensions issues. Often admission agreements are not signed before the contract takes effect leading to periods of limbo for members. This can be a barrier to the parties to a contract sharing risk effectively. Indeed, lack of consideration of pensions issues at the contract negotiation stage could be damaging to those Fair Deal employers using the deemed employer approach. In our April 2018 response to the 2016 consultation, we said we would consider the issues around this further.

45. The draft regulations we are consulting on require that the service contract between a Fair Deal employer and the service provider state whether continued access to the LGPS will be provided via the deemed employer route or via the admission body route. We intend that this requirement will ensure consideration is given to pensions issues at an early stage, and the substantive differences between the two options are fully appreciated.

46. We also expect timely consideration of pensions issues to be covered in the SAB advice, with the benefits of doing so. For example, to ensure that the best value can be obtained from outsourcing exercises, Fair Deal employers should confirm the approach

they intend to adopt at the point they are inviting bids from potential service providers. We welcome views from consultees on other ways in which we can encourage early consideration of pensions issues.

Question 9 – What further steps can be taken to encourage pensions issues to be given full and timely consideration by Fair Deal employers when services or functions are outsourced?

Public sector equality duty

47. Our Fair Deal proposals will strengthen the pensions protections that apply following an outsourcing and it is intended that all transferred staff of relevant LGPS employers will benefit equally from the new provisions. We do not believe our proposals will have an adverse impact on any section of the LGPS employer workforce, and believe they will have equal positive impacts on groups with and without particular protected characteristics.

Question 10 – Are you aware of any other equalities impacts or of any particular groups with protected characteristics who would be disadvantaged by our Fair Deal proposals?

Chapter 3 – Transferring pension assets and liabilities

48. In recent years, the frequency with which LGPS scheme employers have been involved in mergers or takeovers has increased. This increase is partly a consequence of reforms within the public sector (including local authority schools becoming academies, whose proprietors have employer responsibilities in their own right), and of new organisational structures being used by LGPS employers for the delivery of services and functions.
49. When the last active member of an LGPS scheme employer leaves the scheme, the regulations provide that an exit payment usually needs to be paid to the LGPS fund. This means the exiting employer becomes liable for the payment of an amount which is intended to cover the costs of their entire pensions liability, and which is calculated on a low-risk basis. Because of this, the exit payment is often high, particularly in relation to the size of the ceasing employer.
50. Where an LGPS scheme employer merges into, or is taken over by, another organisation this exit payment can sometimes be triggered unintentionally and potentially leave the ceding organisation with a liability they cannot meet. If they cannot do so, the liability will be met by the other employers in the fund (and ultimately the local taxpayer).
51. To address these concerns we propose to amend the regulations to provide that when an LGPS scheme employer is merged into or taken over by another organisation, the responsibility for that pensions liability automatically transfers to the successor body, unless specific legislative provisions require otherwise. This is intended to ensure that normal business activities, such as mergers and takeovers, can take place effectively and efficiently without unintended consequences occurring in respect of an employer's LGPS liabilities.
52. In addition, we propose that where the successor body is also an LGPS employer with active members in another fund, the assets and liabilities must be automatically transferred to that fund and combined with the successor body's assets and liabilities.
53. We propose that the Secretary of State should issue guidance on this area and that, in particular, guidance should cover the terms of transfers of assets and liabilities between pension funds.

Question 11 – Is this the right approach?

Question 12 – Do the draft regulations effectively achieve our aims?

Question 13 – What should guidance issued by the Secretary of State state regarding the terms of asset and liability transfers?

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex B.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Annex A – Draft regulations

STATUTORY INSTRUMENTS

2019 No.

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme (Amendment) Regulations 2019

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

These Regulations are made in exercise of the powers conferred by sections 1, 3 and 25 of, and Schedule 3 to the Public Service Pensions Act 2013^(a).

In accordance with section 21 of that Act, the Secretary of State has consulted the representatives of such persons as appeared to the Secretary of State to be likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

The Secretary of State makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2019.

(2) These Regulations come into force on [xxx] but have effect as follows [xxx].

(3) These Regulations extend to England and Wales.

Amendment of the Local Government Pension Scheme Regulations 2013

2. The Local Government Pension Scheme Regulations 2013^(b) are amended in accordance with regulations 3 to 6.

3. After Regulation 3A^(c) (civil servants etc engaged in probation provision) insert the following regulations—

^(a) 2013 c. 25.

^(b) S.I. 2013/2356; those Regulations have been amended by S.I. 2014/44, S.I. 2014/525, S.I. 2014/1146, S.I. 2015/57, S.I. 2015/755 and by S.I. 2018/493.

^(c) Regulation 3A was inserted by S.I. 2014/1146.

“Pensions protection following a compulsory transfer

3B.—(1) A protected transferee for the purposes of these Regulations is an active member or a person who is eligible to be an active member who was employed by a Fair Deal employer immediately before that person’s employment was compulsorily transferred to a service provider under an ongoing contract in relation to the delivery of a service or a function of the Fair Deal employer on or after [xxx: the date on which the Local Government Pension Scheme (Amendment) Regulations come into force].

(2) The employer of a protected transferee must ensure that the protected transferee has access to membership of the Scheme for so long as that person remains a protected transferee and is entitled to be an active member of the Scheme.

(3) If the employer of a protected transferee is not a Scheme employer under Part 1 or Part 2 of Schedule 2 who designates the protected transferee as being eligible for the LGPS, the Fair Deal employer must provide in their contract with the service provider that a protected transferee must be provided with access to the Scheme either by—

- (a) the service provider entering into an admission agreement under paragraph 1(d) of Part 3 of Schedule 2 to these Regulations; or
- (b) subject to sub-paragraph (4), the Fair Deal employer determining to act as the deemed employer in respect of the protected transferee.

(4) Any determination under sub-paragraph (3)(b) by a Fair Deal employer listed in paragraph 20 of Part 1 of Schedule 2 must be made in accordance with guidance issued by the Secretary of State.

(5) A person remains a protected transferee for so long as that person is wholly or mainly employed on the delivery of the service or function transferred, even if the service or function is subsequently sub-contracted or otherwise transferred to a different service provider.

(6) A person remains a protected transferee even if for a period they are not entitled to be a member of the Scheme because they are entitled to membership of another public service pension scheme in relation to the employment transferred from their Fair Deal employer.

(7) An employee of a service provider who is working wholly or mainly on the delivery of the service or function transferred from a Fair Deal employer other than by a compulsory transfer under sub-paragraph (1) may be treated as a protected transferee with the written agreement of the Fair Deal employer and the service provider.

(8) An agreement under sub-paragraph (7) may be terminated by either the Fair Deal employer or the service provider at any time.

(9) A person who is a former employee of a best value authority or a police authority in Wales^(a) and who is entitled to pension protection or would be entitled to pension protection following a subsequent transfer under the Best Value Authorities Staff Transfers (Pensions) Direction 2007 is to be—

- (a) regarded as being a protected transferee when the contract is next renewed with the same contractor, or the contract passes to a new service provider, and
- (b) shall remain so regarded for such period as that person is—
 - (i) entitled to membership of the Scheme; and
 - (ii) remains wholly or mainly employed on the delivery of the service or function transferred from the best value authority or police authority in Wales.

(10) A person who is a former employee of a Welsh improvement authority^(b) or a community council who is entitled to pension protection or would be entitled to pension protection following a subsequent transfer under the Welsh Authorities Staff Transfers (Pensions) Direction 2012 is to be—

- (a) regarded as being a protected transferee when the contract is next renewed with the same contractor, or the contract passes to a new service provider, and
- (b) shall remain so regarded for such period as that person is—

^(a) Section 1 of the Local Government Act 1999 (c. 27) designates the bodies which are best value authorities.

^(b) Section 1 of the Local Government (Wales) Measure 2009 (c. 02) designates the bodies which are Welsh improvement authorities.

- (i) entitled to membership of the Scheme, and
- (ii) remains wholly or mainly employed on the delivery of the service or function transferred from the Welsh improvement authority or community council.

(11) A person who is an employee of a service provider working on the delivery of a service or function transferred from a Fair Deal employer who has not been compulsorily transferred to the provider from that Fair Deal employer in relation to the delivery of that service or function is not a protected transferee for the purposes of these Regulations.

(12) Where a transfer is requested under regulation 100(1) (inward transfers of pension rights), the administering authority must grant that request if the request relates to the transfer of a protected transferee's pension rights accrued in a pension scheme to which they had access under the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012.

(13) A Fair Deal employer must have regard to advice issued by the Scheme Advisory Board on the matters to be considered in regard to the provision of pensions protection to a protected transferee or persons who may be regarded as protected transferees, including the sharing of risk.

(14) The employer of a protected transferee must—

- (a) provide sufficient and timely information to enable the Fair Deal employer to meet its Scheme functions under these Regulations; and
- (b) be responsible for, and meet any costs arising from, decisions taken by the employer which may give rise to payments under regulation 68 (employer's further payments) in the absence of express provision to the contrary in the service contract between the Fair Deal employer and the service provider.

(15) In this regulation "employer of a protected transferee" means a service provider who employs a protected transferee who is provided with access to the LGPS under this regulation."

4. In regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained), after sub-paragraph (10) insert—

"(11) Where a Scheme employer becomes an exiting employer as a consequence of the Scheme employer being merged into, or taken over by, another organisation—

- (a) the successor body becomes responsible for the exiting employer's assets and liabilities, in the absence of any express legislative provision to the contrary; and
- (b) shall be treated for the purpose of these Regulations as the Scheme employer in relation to the employees and former employees of the exiting employer.

(12) Where the successor body is a Scheme employer with active members in that administering authority or another administering authority, the assets and liabilities of the exiting employer must be automatically transferred to the administering authority of the successor body and combined with the successor body's assets and liabilities.

(13) A transfer of assets and liabilities under sub-paragraph (12) must be determined in accordance with guidance issued by the Secretary of State."

5.—(1) Schedule 1^(a)(interpretation) is amended as follows.

(2) After the definition of "European pensions institution" insert—

"“Fair Deal employer” means a Scheme employer listed in paragraphs 1 to 13 and 15 to 25 of Part 1 of Schedule 2 or in paragraphs 1 to 3 and 5 to 15 of Part 2 of Schedule 2;”

(3) After the definition of "permanently incapable" insert—

"“protected transferee” has the meaning given in regulation 3B(1);”

(4) After the definition of "Scheme year", insert—

"“service provider” means a body contracted to deliver a service or a function of a Fair Deal employer;”

(a) There are amendments to Schedule 1 which are not relevant to these Regulations.

(5) After the definition of “statutory pay” insert—

““successor body” means a body which either—

(a) takes over a Scheme employer, causing that employer to become an exiting employer; or

(b) takes on the functions of a Scheme employer following a merger between that employer and one or more organisations, and which causes that employer to become an exiting employer;”.

6.—(1) Schedule 2 (Scheme employers) is amended as follows.

(2) In Part 3, after paragraph 5 insert—

“5A. An admission agreement made under paragraph 1(d)(i) may include details of risk sharing arrangements between the Scheme employer and the admission body, provided that the Scheme employer has had regard to any advice issued by the Local Government Pension Scheme Advisory Board.”.

(3) In Part 4, in the table insert at the end—

“An employee of a service provider who is a protected transferee, where the Fair Deal employer has determined under regulation 3B(3)(b) that the protected transferee should be deemed to be an employee of the Fair Deal employer	The Fair Deal employer referred to in column 1”
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We consent to the making of these Regulations.

Names

Date Two of the Lords Commissioners of Her Majesty’s Treasury
Signed by authority of the Secretary of State for Housing, Communities and Local Government.

Minister

Minister of State

Date Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”).

Regulations 3, 5 and 6 implement the Government’s “Fair Deal” policy for local government workers with the effect that most members of the Local Government Pension Scheme who are compulsorily transferred to another employer will retain the right to membership of the Scheme.

Regulation 4 provides that where a Scheme employer becomes an exiting employer as a consequence of a takeover or a merger, the assets and liabilities of that employer automatically transfer to the successor body.

Annex B

Personal data

The following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk.

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

Section 21 of the Public Service Pension Act 2013 requires the responsible authority, in this case the Secretary of State, to consult such persons as he believes are going to be affected before making any regulations for the Local Government Pension Scheme. MHCLG will process personal data only as necessary for the effective performance of that duty.

3. With whom we will be sharing your personal data

We do not anticipate sharing personal data with any third party.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected

d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

Local Government Pension Scheme

Statutory guidance on asset pooling

Contents

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Foreword

The reform of investment management in the Local Government Pension Scheme (LGPS) for England and Wales began in 2015 with the publication of criteria and guidance on pooling of LGPS assets, following extensive consultation with the sector. LGPS administering authorities responded by coming together in groups of their own choosing to form eight asset pools.

Through the hard work and commitment of people across the scheme, those eight pools are now operational. Their scale makes them significant players at European or global level, and significant annual savings have already been delivered, with the pools forecasting savings of up to £2bn by 2033. Along the way many lessons have been learnt and great progress has been made in developing expertise and capacity, including in private markets and infrastructure investment.

This is a considerable achievement in itself, but there is still a long way to go to complete the transition of assets and to deliver the full benefits of scale. In the light of experience to date with pooling and the challenges ahead, authorities have requested guidance on a range of issues. The time is now right for new guidance to support further progress.

1 Introduction

1.1 This guidance sets out the requirements on administering authorities in relation to the pooling of LGPS assets, building on previous Ministerial communications and guidance on investment strategies, and taking account of the current state of progress on pooling. It is made under the powers conferred on the Secretary of State by Regulation 7(1) of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (the 2016 Regulations). Administering authorities are required to act in accordance with it.

1.2 This guidance replaces the section at pages 7 to 8 of Part 2 of *Guidance for Preparing and Maintaining an Investment Strategy*, issued in September 2016 and revised in July 2017, which deals with regulation 7(2)(d) of the 2016 Regulations. It also replaces *Local Government Pension Scheme: Investment Reform Criteria and Guidance*, issued in November 2015.

2 Definitions

2.1 This guidance introduces a set of definitions for use in this and future guidance, as follows:

'Pool' the entity comprising all elements of a Local Government Pension Scheme (LGPS) asset pool

'Pool member' an LGPS administering authority which has committed to invest in an LGPS pool and participates in its governance

'Pool governance body' the body used by pool members to oversee the operation of the pool and ensure that the democratic link to pool members is maintained (for example, Joint Committees and officer committees)

'Pool company' the Financial Conduct Authority (FCA) regulated company which undertakes selection, appointment, dismissal and variation of terms of investment managers, and provides and operates pool vehicles for pool members

'Pool fund' a regulated unitised fund structure operated by a regulated pool company, such as an Authorised Contractual Scheme (ACS)

'Pool vehicle' an investment vehicle (including pool funds) made available to pool members by a regulated pool company

'Pooled asset' an investment for which the selection, appointment, dismissal and variation of terms for the investment manager is delegated to a regulated pool company, or an investment held in a pool vehicle

'Retained asset' an existing investment retained by a pool member during the transition period

'Local asset' a new investment by a pool member which is not a pooled asset

3 Structure and scale

3.1 All administering authorities must pool their assets in order to deliver the benefits of scale and collaboration. These include:

- reduced investment costs without affecting gross risk-adjusted returns
- reduced costs for services such as custody, and for procurement
- strengthened governance and stewardship and dissemination of good practice
- greater investment management capacity and capability in the pool companies, including in private markets
- increased transparency on total investment management costs
- diversification of risk through providing access to a wider range of asset classes, including infrastructure investments

3.2 In order to maximise the benefits of scale, pool members must appoint a pool company or companies to implement their investment strategies. This includes:

- the selection, appointment, dismissal and variation of terms of investment managers, whether internal or external

- the management of internally managed investments
- the provision and management of pool vehicles including pool funds

It is for the pool companies to decide which investment managers to use for pool vehicles, including whether to use in-house or external management. Pool members may continue to decide if they wish to invest via in-house or externally managed vehicles.

3.3 Pool companies may be wholly owned by pool members as shareholders or may be procured and appointed by the pool members as clients.

3.4 A pool company must be a company regulated by the Financial Conduct Authority (FCA) with appropriate FCA permissions for regulated activities. This helps ensure the pools comply with financial services legislation, and provides additional assurance to scheme members and employers. Depending on the structure of the pool, appropriate permissions may include permissions for execution, acting as agent, provision of advice, or such other permissions as required by the FCA. Where regulated funds (e.g. in an ACS) are operated by the pool company it should comply with relevant UK legislation.

Regular review of services and procurement

3.5 Pool governance bodies, working with the pool company, should regularly review the provision of services to the pool, and the process of procurement, to ensure value for money and cost transparency. Where services are procured or shared by pool members, pool members should regularly review the rationale and cost-effectiveness of such arrangements, compared to procurement and management through the pool company. Pool members and pool companies should consider using the national LGPS procurement frameworks (www.nationallgpsframeworks.org) where appropriate.

Regular review of active and passive management

3.6 Pool members, working with the pool company, should regularly review the balance between active and passive management in the light of performance net of total costs. They should consider moving from active to passive management where active management has not generated better net performance over a reasonable period. Pool members should also seek to ensure performance by asset class net of total costs is at least comparable with market performance for similar risk profiles.

4 Governance

4.1 Pool members must establish and maintain a pool governance body in order to set the direction of the pool and to hold the pool company to account. Pool governance bodies should be appropriately democratic and sufficiently resourced to provide for effective decision making and oversight.

4.2 Pool members, through their internal governance structures, are responsible for effective governance and for holding pool companies and other service providers to account. Strategic asset allocation remains the responsibility of pool members, recognising their authority's specific liability and cash-flow forecasts.

4.3 Members of Pension Committees are elected representatives with duties both to LGPS employers and members, and to local taxpayers. Those who serve on Pension Committees and equivalent governance bodies in LGPS administering authorities are, in many ways, required to act in the same way as trustees in terms of their duty of care to scheme employers and members, but are subject to a different legal framework, which derives from public law. In particular while they have legal responsibilities for the prudent and effective stewardship of LGPS funds, LGPS benefits are not dependent on their stewardship but are established and paid under statute in force at the time.

4.4 Those who serve on Pension Committees and equivalent governance bodies in pool members should therefore take a long term view of pooling implementation and costs. They should take account of the benefits across the pool and across the scheme as a whole, in the interests of scheme members, employers and local taxpayers, and should not seek simply to minimise costs in the short term.

4.5 Local Pension Boards of pool members have a key role in pool governance, given their responsibilities under the LGPS Regulations 2013 (regulation 106 (1)) for assisting authorities in securing compliance with legislation, and ensuring effective and efficient governance and administration of the LGPS. They can provide additional scrutiny and challenge to strengthen pool governance and reporting, and improve transparency and accountability for both members and employers.

4.6 Local Pension Boards may also provide a group of knowledgeable and experienced people from which observers may be drawn if pool members wish to include observers on pool governance bodies.

Strategic and tactical asset allocation

4.7 Pool members are responsible for deciding their investment strategy and asset allocation, and remain the beneficial owners of their assets, in accordance with *Guidance for Preparing and Maintaining an Investment Strategy*.

4.8 Pool members collectively through their pool governance bodies should decide the pool's policy on which aspects of asset allocation are strategic and should remain with the administering authority, and which are tactical and best undertaken by the pool company. Pool governance bodies, when determining where such decisions lie, should be mindful of the trade-off between greater choice and lower costs and should involve the pool company to ensure the debate is fully informed on the opportunities and efficiencies available through greater scale.

4.9 Providing pool members with asset allocation choices through an excessively wide range of pool vehicles or investment managers will restrict the pool company's ability to use scale to drive up value. On the other hand maximising scale by significantly limiting asset allocation options may not provide all pool members with the diversification needed to meet their particular liability profile and cash flow requirements. Pool members should set out in their Funding Strategy Statement and Investment Strategy Statement how they, through the pool governance body, have balanced these considerations and how they will keep this under regular review.

4.10 Where necessary to deliver the asset allocation required by pool members, pool companies may provide a range of pool vehicles and in addition arrange and manage segregated mandates or access to external specialist funds. Pool governance bodies should ensure that their regulated pool companies have in place the necessary permissions to enable pool vehicles to be made available where appropriate.

4.11 Determining where asset allocation decisions lie will not be a one-off decision as pool member requirements will change over time. Pool governance bodies should ensure that a regular review process, which involves both pool members and pool companies, is in place.

5 Transition of assets to the pool

5.1 Pool members should transition existing assets into the pool as quickly and cost effectively as possible. Transition of listed assets should take place over a relatively short period.

5.2 Pool governance bodies, working with pool companies and, where appointed, external transition managers, should seek to minimise transition costs to pool members while effectively balancing speed, cost and timing, taking into account exit or penalty costs and opportunities for crossing trades.

5.2 The transition process will incur direct or indirect costs which may fall unevenly across pool members. For example, where the selected managers are used by some pool members but not others. In such cases pool members who are already using the selected manager may incur significantly lower (if any) transition costs than those who do not.

5.3 Inter-authority payments (or other transfers of value) may be desirable in order to share these costs equitably between pool members. The Government's view is that such payments are investment costs within Regulation 4(5) of the 2016 Regulations, and payments made by a pool member to meet its agreed share of costs may be charged to the fund of that pool member, whether the payments are made to other pool members, the pool company, or another body by agreement.

Temporary retention of existing assets

5.4 In exceptional cases, some existing investments may be retained by pool members on a temporary basis. If the cost of moving the existing investment to a pool vehicle exceeds the benefits of doing so, it may be appropriate to continue to hold and manage the existing investment to maturity before reinvesting the funds through a pool vehicle.

5.5 In many cases there will be benefits in such retained assets being managed by the pool company in the interim. However pool members may retain the management of existing long term investment contracts where the penalty for early exit or transfer of management would be significant. These may include life insurance contracts ('life funds') accessed by pool members for the purpose of passive equity investment, and some infrastructure investments. Pool members may also retain existing direct property assets where these may be more effectively managed by pool members.

Regular review of retained assets

5.6 Pool members, working with the pool company, should undertake regular reviews (at least every three years) of retained assets and the rationale for keeping these assets outside the pool. They should review whether management by the pool company would deliver benefits. Pool members should consider the long term costs and benefits across the pool, taking account of the guidance on cost-sharing, and the presumption should be in favour of transition to pool vehicles or moving such assets to the management of the pool company.

6 Making new investments outside the pool

6.1 Pool members should normally make all new investments through the pool company in order to maximise the benefits of scale. Following the 2019 valuation, pool members will review their investment strategies and put revised strategies in place from 2020. From 2020, when new investment strategies are in place, pool members should make new investments outside the pool only in very limited circumstances.

6.2 A small proportion of a pool member's assets may be invested in local initiatives within the geographical area of the pool member or in products tailored to particular liabilities specific to that pool member. Local assets should:

- Not normally exceed an aggregate 5% of the value of the pool member's assets at the point of investment.
- Be subject to a similar assessment of risk, return and fit with investment strategy as any other investment.

6.3 Pool members may invest through pool vehicles in a pool other than their own where collaboration across pools or specialisation by pools can deliver improved net returns.

6.4 During the period of transition, while pool governance bodies and pool companies work together to determine and put in place the agreed range of pool vehicles, a pool member may make new investments outside the pool, if following consultation with the pool company, they consider this is essential to deliver their investment strategy. This exemption only applies until the pool vehicles needed to provide the agreed asset allocation are in place.

7 Infrastructure investment

7.1 Infrastructure investment has the potential to provide secure long term returns with a good fit to pension liabilities, and form part of investment strategies of authorities. The establishment of the pools was intended to provide the scale needed for cost-effective investment in infrastructure, and to increase capacity and capability to invest in infrastructure.

7.2 There is no target for infrastructure investment for pool members or pools, but pool members are expected to set an ambition on investment in this area. Pool companies may provide pool vehicles for investment in UK assets, or overseas assets, or both, as required to provide the risk and return profile to meet pool member investment strategies. However the Government expects pool companies to provide the capability and capacity for pools over time to move towards levels of infrastructure investment similar to overseas pension funds of comparable aggregate size.

7.3 Pool companies may provide pool vehicles for investment in existing (brownfield) or new (greenfield) infrastructure, based on an assessment of the benefits and risks in relation to pool member liabilities, and non-financial factors where relevant. Pool members may invest in their own geographic areas but the asset selection and allocation decisions should normally be taken by the pool company in order to manage any potential conflicts of interest effectively, maintain propriety, and ensure robust evaluation of the case for investment.

7.4 For the purpose of producing annual reports, infrastructure assets are defined in the Chartered Institute of Public Finance and Accountancy (CIPFA) guidance *Preparing the Annual Report* as follows:

Infrastructure assets are the facilities and structures needed for the functioning of communities and to support economic development. When considered as an investment asset class, infrastructure investments are normally expected to have most of the following characteristics:

- *Substantially backed by durable physical assets;*
- *Long life and low risk of obsolescence;*
- *Identifiable and reliable cash flow, preferably either explicitly or implicitly inflation-linked;*
- *Revenues largely isolated from the business cycle and competition, for example, through long term contracts, regulated monopolies or high barriers to entry;*
- *Returns to show limited correlation to other asset classes.*

Key sectors for infrastructure include transportation networks, power generation, energy distribution and storage, water supply and distribution, communications networks, health and education facilities, social accommodation and private sector housing.

Conventional commercial property is not normally included, but where it forms part of a broader infrastructure asset, helps urban regeneration or serves societal needs it may be.

7.5 All residential property is included in this definition of infrastructure. It is not restricted to social accommodation or private sector housing.

7.6 A variety of platforms may be required to implement the infrastructure investment strategies of pool members. Pool companies are expected to provide access to a range of options over time including direct and co-investment opportunities.

8 Reporting

8.1 Pool members are required to report total investment costs and performance against benchmarks publicly and transparently in their annual reports, following the CIPFA guidance *Preparing the Annual Report*, with effect from the 2018-19 report.

8.2 In summary, pool member annual reports should include:

- opening and closing value and proportion of pooled assets by asset class
- opening and closing value and proportion of local assets by asset class
- net and gross performance of pooled assets by asset class
- total costs of pooled assets by asset class
- for actively managed listed assets, net performance by asset class net of total costs compared to appropriate passive indices over a one, three and five year period
- net and gross performance of local assets by asset class
- total costs of local assets by asset class
- asset transition during the reporting year
- transition plans for local assets
- pool set-up and transition costs, presented alongside in-year and cumulative savings from pooling
- ongoing investment management costs by type, with a breakdown between pooled assets and local assets

8.3 Investments should be classed as pool assets on the basis of the definition in the CIPFA guidance *Preparing the Annual Report*.

For the purpose of defining those assets which are classed as being within an asset pool, 'pooled assets' are those for which implementation of the investment strategy – i.e. the selection, appointment, dismissal and variation of terms for the investment managers (including internal managers) – has been contractually, transferred to a third party out with the individual pension fund's control.

8.4 Any investment where a pool member retains the day to day management, or the responsibility for selecting or reappointing an external manager, is not a pool asset.

8.5 Pool members should provide a rationale for all assets continuing to be held outside the pool, including the planned end date and performance net of costs including a comparison which costs of any comparable pool vehicles. They should also set out a high level plan for transition of assets.

8.6 The SAB will publish an annual report on the pools based on aggregated data from the pool member annual reports, in the Scheme Annual Report. Pool members should comply with all reasonable requests for any additional data and information from the SAB to enable it to publish a comprehensive report.

8.7 Pool members should ensure that pool companies report in line with the SAB Code of Cost Transparency. They should also ensure that pool companies require their internal and external investment managers to do so.

8.8 Pool members should also ensure that the annual report of the pool company is broadly consistent with the reports of pool members, and with the Scheme Annual Report, in so far as it relates to their investments, and that the report includes a narrative to explain differences. These may arise for example from reporting periods of pool companies which differ from that of the pool member.

8.9 Pool members are required to report any change which results in failure to meet the requirements of this guidance to the LGPS Scheme Advisory Board (SAB) and to MHCLG.

