

<b>Report title</b>	Regulatory Update	
<b>Originating service</b>	Pension Services	
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**Recommendations for action:**

The Pensions Committee is asked to note:

1. Developments within the current regulatory environment in which the Fund operates.

## **1.0 Purpose**

- 1.1 To provide members of the Committee with an update on the regulatory environment, potential forthcoming changes across the Local Government Pension Scheme (LGPS) and the wider pensions industry, as particularly relevant to the Fund at this time.

## **2.0 The Pensions Regulator's – General Code of Practice**

- 2.1 The Pensions Regulator's (tPR) General Code of Practice (previously known as the Single Code of Practice) was laid in parliament on 10 January 2024 and is expected to come into effect on 27 March 2024. As previously reported to this Committee, the regulator consulted on the implementation of their general code in March 2021 with the Fund participating in a number of roundtables feeding into the consultation and discussion on its contents.

- 2.2 The General Code combines the Regulator's previous 10 codes into one single general code covering the following areas:

- The Governing Body
- Funding and Investment
- Administration
- Communications and Disclosure
- Reporting to the tPR

- 2.3 The general code covers all pension funds, not just the public sector/LGPS, and while there is some debate on its full application to the LGPS, the Fund recognises that the Code seeks to effect good standards of governance and sees it as an opportunity to develop standards of good practice. Whilst the code is not a fundamental change from the previous public sector pension scheme code, it does include new areas of focus, including investment governance, climate reporting and cyber risk. All areas the Fund has been working to develop its approach and assurance in recent years, including through investment reporting and cyber assurance.

- 2.4 The Fund are in the process of reviewing the gap analysis undertaken during 2021 on the draft code to identify any new areas included in the final version and will review its compliance with the standards set as further industry understanding develops of the Code and its application to the LGPS.

## **3.0 Scheme Advisory Board (SAB) Annual Report Guidance and Key Performance Indicators**

- 3.1 The Scheme Advisory Board's Compliance and Reporting Committee has a workstream to update the 2019 Chartered Institute of Public Finance and Accountancy (CIPFA) statutory guidance "Preparing the Annual Report". A volunteer group from across the LGPS Funds has been working with SAB to provide feedback on the current guidance noting areas for development. It is expected that any new guidance will increase asks on

reporting, including those on asset allocation and investment pooling arrangements, in line with the outcome of the Government's investment consultation in November 2023.

- 3.2 Contained within the proposal is a new set of Key Performance Indicators (KPIs), focusing on membership, employers and value for money (as opposed to cost per member). KPIs developed by SAB are not a new concept; when the Board was first created it developed a set of standard KPIs for LGPS Funds to benchmark against an agreed set of standards.
- 3.3 The revised Annual Report Guidance is expected to be jointly published by SAB and CIPFA before the end of March 2024. In line with the Chancellor's budget speech on 6 March, LGPS funds will be asked to report certain information on asset allocation from 2024, with the Guidance expected to apply for the 31 March 2024 year end and Annual reports due by 1 December 2024. The Fund will continue to review and work to comply with reporting requirements arising from the proposed changes.

#### **4.0 McCloud Remedy**

- 4.1 In 2014, the LGPS changed from a final salary scheme to a career average scheme. Older members who were closer to retirement were protected from these changes. When a protected member retired, their pension fund compared the career average pension they built up before age 65 with the pension they would have built up in the final salary scheme. If the final salary pension was higher, the difference was added to their pension. This protection is called the underpin.
- 4.2 Following a court case brought by the firefighters and judges pension scheme, the courts determined that the ruling was discriminatory on grounds of age as it only protected those members who fell into the older age category, being within 10 years of retirement. Now, as a result of that ruling, all public sector pensions, including the LGPS are required to remedy the discrimination created by the underpin protection and revisit pension calculations, including those in payment to ensure there has been no detriment to the member as a result of the judged discrimination.
- 4.3 The Fund has reported to Committee previously, the work required to rectify the member pensions affected by McCloud, launching a data onboarding project required to obtain relevant data from employers for those members affected by the underpin. That work continues as we look to rectify hours and pay data required to recalculate benefits.
- 4.4 In addition to the data gathering exercise, the Fund then needs to go through the process of reviewing member records in line with the remedy and applying amended benefit calculations where required.
- 4.5 At this time, the Fund is awaiting confirmed remedy proposals, having received initial guidance on certain elements which are in the process of being reviewed and understood.

4.6 Third Party administrators, including those used by the Fund are involved in national groups to understand the implications of the remedy and how it needs to be implemented into pension administration systems.

## **5.0 Procurement Act 2023**

5.1 The new Procurement Act received Royal Assent in October 2023 and seeks to bring about changes to the Public Contract Regulations 2015. It is anticipated that the new Act will come into force in the Autumn and brings with it a number of changes to how public procurements are managed and reported. One of the main areas of change relates to transparency and ongoing contract management and reporting, including requirements to develop and report on an annual basis Key Performance Indicators of the delivery of services provided.

5.2 The Fund is working with the Council to understand the changes and develop internal processes for ensuring the ongoing effective management of contracts.

## **6.0 Sharia Law**

6.1 As previously reported to the Committee, in 2022 the Scheme Advisory Board (SAB) considered legal advice regarding members opting out of the LGPS on the basis of their religious beliefs, following which an expert in Islamic finance was commissioned to report on whether the LGPS is Sharia compliant.

6.2 That report has now been received and concluded that Muslim employees can continue to contribute to, and benefit from the LGPS. A link to the full report has been provided in the background papers to this report.

6.3 SAB will now seek further advice on the content of the report, an update on which will be provided to a future meeting of the Committee.

## **7.0 Other Regulatory Changes**

### **7.1 Economic Activity of Public Bodies (Overseas Matters) Bill**

7.1.1 A bill seeking to remove the possibility for public bodies, including councils, to campaign against, boycott, seek divestment from or sanction a particular territory, unless endorsed by the Government's own foreign policy. It applies to all aspects of public investment or procurement and is not limited to pension investments specifically. The bill continues to work through the parliamentary process, with a number of amendments being proposed and debated. The Committee will be updated as the legislation and regulatory framework comes into effect.

7.1.2 Investment decisions of the Fund are taken in line with the fiduciary duty to ensure returns to pay the long term pension benefits as they fall due, requiring the Fund to make prudent investment decisions based on assessment of the financial consequences, including environmental, social and governance (ESG) matters.

## **7.2 Abolition of the Lifetime Allowance**

7.2.1 In November 2023 HM Treasury announced that the lifetime allowance will be abolished from 6 April 2024. Before this date, if the value of pension benefits when taken exceeded the lifetime allowance a member was required to pay tax on their benefits. While the removal of the lifetime allowance will be beneficial to members, there are practical considerations that Funds will need to consider when implementing the guidance. Further guidance is awaited.

## **7.3 Pensions Dashboards**

7.3.1 Pensions Dashboards is a national initiative which aims to get people more engaged with their pensions by having all their pensions in one place. Through a central “exchange” individuals will be able to search all the pensions they have, with who, and find out how to contact the organisations. Understanding the potential combined value of those pensions is intended to aid retirement saving and planning.

7.3.2 The Pensions Dashboard program continues to move at pace with the deadline for LGPS Funds to be “connection ready” by Autumn 2026. In November guidance was issued outlining the stages for Administering Authorities to ensure connection to the Dashboards with third party administrators and system providers part of a wider working group to ensure administration systems are ready for the switch on. The Fund has been actively supporting the program being a founder in the National LGPS Frameworks for integrated service providers (ISP) and Data Services, which will provide options for Funds to procure relevant providers in support of the connection requirements. The Fund is working with its software provider to understand the options and services available through their platform.

## **8.0 Financial Implications**

8.1 There are no direct financial implications.

## **9.0 Legal Implications**

9.1 Noncompliance with statutory requirements could result in the Fund receiving a fine or enforcement action from the Pensions Regulator and/or judicial review for maladministration from the Department (DLUHC).

## **10.0 Equalities Implications**

10.1 There are no direct equalities implications.

## **11.0 Other Implications**

11.1 There are no potential other implications.

## **12.0 Schedule of Background Papers**

- 12.1 SAB – An opinion on the Shariah Compliance of Pension Benefits for Muslim Members of the LGPS:  
[lgpsboard.org/images/Reports/ShariaandLGPS/An\\_Opinion\\_on\\_the\\_Shariah\\_Compliance\\_of\\_LGPS.pdf](https://lgpsboard.org/images/Reports/ShariaandLGPS/An_Opinion_on_the_Shariah_Compliance_of_LGPS.pdf)

## **13.0 Schedule of Appendices**

- 13.1 None.