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The Officers of Croydon Council Local Government Pension Scheme are pleased to submit our response to the LGPS in England and Wales: Access and Fairness Consultation. The Officers of the fund administer the scheme on behalf of the Administrating Authority, Croydon Council.

Please see response below, which has been emailed to MHCLG:

**Q1 – Do you agree with the government’s proposed amendment of survivor benefits rules?**

Yes, we agree with the proposed amendments which we have been expecting for many years.

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

We agree with backdating the amendments to the date each relevant relationship type was recognised in law, to fully remove discrimination.

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

This is going to be very challenging and will have a considerable impact on administration officers working on reviewing these benefits. Identifying cases in scope will have to be completed manually, which will be very time consuming and will require experienced staff. Recalculating survivor benefits that are in payment and any associated increases, as well as arrears and interest - both of which will need to be completed manually - represents a considerable impact on resourcing in terms of officer time required to process these cases. This needs to be considered when setting remediation timescales, particularly in the light of other current high impact

work being undertaken by funds associated with the preparation for Pensions Dashboard and McCloud implementation.

Additional complications may arise where the relevant partner has died in the intervening period. Attempting to trace their next of kin could be very difficult, expensive, take a considerable period of time, possibly years, and still possibly be unsuccessful. For example, if a member died in January 2006, and had a surviving spouse whose pension needs recalculating for the equalisation, the spouse could easily have died 19 years ago and could be owed a tiny sum of money.

Tracing potential beneficiaries becomes harder the longer it is after the member's death. Generally, if the Fund is informed of a death more than 1 year later, it often takes years to track down any beneficiaries, if it is even possible. Even if the Fund holds old contact details for the next of kin, many will have moved and no longer be traceable.

Contacting anyone after such a long time to ask about a deceased member's relationship status, will inevitably upset those we contact. They will be especially upset if there are no benefits payable because there is no relevant partner. Therefore, this will have to be handled delicately and is likely to cause stress both to surviving family members / next of kin and to the officers contacting them. Attempting to trace survivors will be expensive and time consuming for the fund. Often family members / next of kin will not reply or cannot be traced. Officers feel that administering authorities should be allowed to make reasonable attempts to locate survivors and recalculate any survivors pensions in payment without the requirement to have reached a resolution within an imposed timeframe; given that resolution may not be possible due to the possibility that next of kin may not be traceable. Setting defined resolution deadlines is likely to lead to breaches which the administering authority has no power to address, similar to the 5 years' deadline for paying refunds which has just been resolved by changes to legislation to remove this requirement.

Officers feel that imposing a statutory deadline for completing this work would not be desirable in light of the other current high impact / resource heavy legislative workstreams that are in progress, namely the McCloud Remedy and preparation for Pensions Dashboards. If a two-year deadline for equalising survivor benefits were to be imposed, it is probable that business as usual work would be impacted, leading to backlogs arising and increasing in size in a short period of time. It is difficult to recruit sufficient appropriate staffing resources to address this issue as there is a lack of trained knowledgeable candidates to draw from across the sector. Additionally, it is not feasible to appoint inexperienced staff to develop as training them sufficiently to deal with all types of LGPS calculations takes years and integral to the acquisition of this knowledge is considerable experience gained through practice to recognise, have awareness of and understand how to apply a multitude of legislative requirements to a broad spectrum of cases.

#### **Q4 – Do you have any further comments on the proposed changes?**

Officers have no further comments on the proposed changes

**Q5 – Do you agree with the government’s proposals to formalise the removal of the nomination requirement?**

Officers agree with this proposal

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

The LGA’s response to the consultation highlights, in the relevant technical comments for this section, the problems associated with the existing definition of nominated cohabiting partner in the 2011 regulations. The issue is that currently the couple must meet the conditions detailed in the regulations for a continuous period of two years, ending on the date the nomination form was signed. This has many implications, including that if the relationship ended or it ceased to meet the conditions between the nomination form being signed and the member’s death, the ex-partner could be eligible for a cohabiting partner’s pension despite not actually being the partner. The existing issues would be resolved if the proposed definition in the draft regulations is put in place and officers support this fully. Officers believe the new regulations should be used to address this issue.

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

Officers practice has been to disapply nomination requirements since 2021, following the LGA’s advice, and we therefore believe that there will be no additional impact resulting from the proposed backdating intention.

**Q8 – Do you agree with the proposed amendments to death grants?**

Yes, officers do agree with the proposed amendments. Members have been asking for these for some time.

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

Yes, officers do agree with the proposal to remove the age 75 cut-off from the regulations. If family members / next of kin are required to reopen the estate and a supplementary grant of probate needs to be applied for, this could deter them from proceeding, resulting in them not receiving these payments.

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

Officers comment that it is disappointing this has taken so long to be addressed. This delay will cause serious issues with implementation, which could have been mitigated if this change had been made when the disparity was initially identified. Whilst the relevant members will be easy to identify, the issue for officers is the difficulty in tracing the relevant beneficiaries in order to make payment of the monies owed, especially as some of these cases could be over 11 years old. Officers would welcome guidance on what is reasonable effort to put into tracing beneficiaries of small amounts of death grant. Officers would suggest that if the last contact the fund

had with the family/ next of kin was more than 2 years ago and the payment due is less than £250.00, the Fund would only make two attempts at contact before closing the case. Should any next of kin / beneficiary come forward at a later date, it is the opinion of officers that the amount due should be paid by the Fund at that time.

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

These cases will be easy to identify but there may be difficulty in locating possible beneficiaries. Officers may have to contact many different people to ascertain who is the correct person or persons entitled to receive monies due. Those who are not paid may be upset about being contacted so long after the death and when they will not even be receiving any money.

There are tax implications for paying a death grants, which would also affect those members who would receive a death grant beyond their 75<sup>th</sup> birthday, being covered by this backdating proposal. Death grants are required to be taxed as the beneficiary's income or are subject to the special lump sum death benefits charge of 45% if paid to a non-qualifying person. If they are to be taxed as the beneficiary's income, will the responsibility for declaring / making payment of the tax due lie with the beneficiary, or will it be deducted by the Fund from the gross payment due with the beneficiary receiving the net amount? If the latter applies, there is the question of what tax rate the Fund should apply and who is responsible for supplying this information to the Fund, the beneficiary or HMRC; if it is the beneficiary, where would the liability lie should the wrong rate be applied? At the moment most death grants are paid at the pension funds discretion so are tax free. It is officers' opinion that the tax due on these amounts should be paid by the beneficiary directly to HMRC, therefore the Fund would make gross payments of monies due to the beneficiaries.

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

Officers support this proposal but have some comments. The 2 year deadline has been instrumental in getting cases resolved, in so far as payments would be required to be made to the estate instead of to the beneficiary if not made within the 2 year period. This is important because the payment would then be subject to a 45% tax charge. This has convinced several beneficiaries to return their forms to receive their share of the death grant.

This has implications for resourcing in terms of officer time taken to resolve these cases. Officers support the removal of the two-year limit but wish to comment that, without this, some of the more complicated past cases the Fund has dealt with may have taken much longer than 2 years to resolve.

Officers agree that this change should apply to all death grants that have not been paid when the legislation takes effect.

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

Officers comment that the legislative changes to remove the two-year limit and age 75 death grant limit must be made and come into operation concurrently.

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

Officers do not feel that this amendment would be practical as it is set out in the consultation. But the officers also disagree with the LGAs suggestion for this question, we feel that changing the unpaid leave limit for this to 14 days would be too short.

If a member takes all 30 days in one month a debt of pension contributions for the next month's pay is created. If the period was set at 21 days it would, in part, help women with caring responsibilities. 21 days of unpaid leave a year would be very high for caring responsibilities, and it is unlikely many people would use all 21 days. Employers would probably be looking at other options if an employee consistently took 30 days unpaid leave a year for caring responsibilities, such as a change in hours. Allowing employers to extend this allowance to 30 days with the employee's permission if the unpaid leave were to be granted on compassionate grounds, e.g. a child suffering leukaemia requiring regular trips to a specialist hospital far from home might be something that could be considered. But if this was implemented it could lead to inconsistency / disparity in application across employers and has the potential to be subjective. Were it to be implemented, a mandatory discretion would need to be included in employers' discretions policies related to this.

Alternatively, if there was flexibility on the issue around the time period allowed to pay the contributions back, this would solve the issues mentioned above. It is perfectly conceivable that someone may want to take a month as unpaid leave for a variety of reasons, not only in relation to caring responsibilities, and there is no real reason that they shouldn't then compulsorily pay the contributions for this period as long as the payments can be spread over a long enough time frame for them to be affordable. Deductions can be made via payrolls so this should not be too difficult, administratively, for employers – it is more an issue of them having the knowledge to implement it and advise the Fund appropriately.

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

Some officers favour the actual lost pay option for calculating contributions. This is because, even 11 years after APP was introduced, some employers still do not understand it properly, some of their payroll systems do not calculate it correctly and it causes far more work for the officers of the fund than it should in resolving queries associated with it. Any payroll system should be able to calculate actual lost pay, and this can make applying backdated pay increases to CARE pay easier to administer

An alternative perspective is that, if the intention of the changes is to address women being disproportionately penalised, then using actual lost pay doesn't achieve this. The amount of 'pensionable pay' added to the CARE pot for these periods could be less than it would have been had the individual been working, as they would have been receiving any additional payments which would have formed part of their CARE pay; this would be addressed by the use of APP in these calculations.

Removing the actuarial calculation aspect by aligning the contribution calculation to the proposal for the unpaid leave over 30 days calculation, ie making it the amount that the member would have paid under the relevant employee contributions bandings and employer rate as defined in the rates and adjustments certificate, would aid administration and make buying back the unpaid leave less disproportionately expensive for women therefore making it more effective in addressing the gender gap.

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

Yes, officers agree with this proposal as a sensible and easy option in terms of employer and officer administration. Historically, not many members have chosen to pay back unpaid leave periods of more than 30 days or lost pension amounts. It is not clear whether these changes will encourage greater uptake of these options generally and, more specifically among women but, should they choose to exercise this option, this method of cost calculation will certainly remove the disparity of cost between members of different ages and sexes.

There are some questions which need to be answered about how this would be implemented and the time period the member has to make payment over; would the payment period be equal to the amount of time the member was absent (ie the unpaid leave period) or would the member be able to choose the time frame, which might make it a more attractive and financially viable option for the individual?

There is also the question of whether the unpaid leave period should be treated as though the member had not taken unpaid leave, therefore whether the pension bought would be added to the pension for the period the member was absent, ie the year of the period the unpaid leave was taken, or whether it would be added to the pension for the year that it is being paid back in.

If a member agrees to buy back the lost pension outside of the financial year they had the unpaid leave, and the member's pension is treated the same as it would have been had they not taken the unpaid leave, there could be a cost to the scheme in terms of the revaluation amounts applied to it. This does not have a considerable impact on the Fund if the CARE revaluation rate for the relevant years is low, as the difference will be minimal. However, if the revaluation rate for the year the absence occurred was 10.1% for instance, this could make a much bigger difference to the member's benefits and therefore represents a greater cost to the Fund in terms of the value of the benefits payable to the member. If the amount were instead to be added to the figures for the year it was paid back in, the revaluation would not apply to it until the April following the period it was paid, representing less of a cost to the Fund, but adversely affecting the member, therefore perhaps not as effective in

terms of addressing the gender disparity, given that according to data collated by the SAB, 90% of unpaid leave is taken by women.

Officers make the observation that if members can opt to pay back these unpaid leave periods after the year in which they occurred. possibly several years later, the Fund would be missing out on the returns it would have made from investing the contributions at the time that the unpaid leave occurred while also having to pay higher revalued benefits if the unpaid leave were to be added to the benefits for the year that the unpaid leave occurred.

Officers also make the observation that there are cost implications for employers associated with this proposal. Currently employers can be liable to pay two thirds of the cost of buying back unpaid leave if the election is made by the member within 30 days of returning to work. By applying the RAC determined employer contribution rates, employers could potentially be paying more than this. If the member is absent for a long period, this could be very costly to the employer.

Officers wish to highlight that this proposal will pose an issue for how this type of buying back lost pension is recorded on Fund IT administration systems. There are a handful of administration software providers servicing LGPS Funds. Technical changes to these applications take notoriously long periods of time to develop, test and implement and do not always fully accommodate regulation requirements, sometimes requiring work round solutions to be implemented by Funds. Changes to these pension systems come at a cost to pension funds; this proposal could be quite expensive in relative terms for such a currently little used process. However, if the take up proves to be greater than current numbers electing to pay back these periods, the relative expense may be lessened.

Processes will need to be adapted by individual funds which will impact Fund technical officer time and therefore this is another cost factor associated with this proposal.

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

Officers support this proposal. There will need to be clarity about what rules apply to a member who is on unpaid leave at the time the new regulations take effect. There will also need to be clarity on what happens if a member ceases paying the deductions before the full amount is paid, i.e. how the correct amount of pension bought is calculated. Officers recommend that the government restricts the option to buy back lost pension to active members of the pension scheme who are in the same continuous employment with the same employer. It will make administration far more difficult if the member can apply within a year but after having left the scheme or their employment. Therefore, officers would recommend that the deadline is the earlier of one year from the date of return to work after the unpaid leave period, the date the member left employment or the date the member left the scheme. However, there is still a possible complication in circumstances where a member leaves their employment but has made an election the day before they leave, regarding how payments will be made: currently these contribution amounts can only be paid back by monthly deductions form salary payments. This would need to be changed to

either allow payments not through salary deductions or to require the new employer to make the deductions and pay them over to the Fund which would present additional administrative difficulties and impact officer time to undertake.

The exact method on how to deal with absences over 30 days is very complex and the LGA brings up some very important points. Officers feel this set of regulation changes needs to be looked at further and consulted on with the LGA and other parties before being enacted.

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

Officers comment that they agree with the LGA response to the consultation on this point, namely that this proposal should not be taken forward in its current form. There are numerous technical issues that have been highlighted by the LGA in connection with this matter.

Whilst it is not likely that employers would look to retain staff on their payrolls for periods exceeding 3 years without pay which employees could potentially then buy back, nonetheless it presents a potential opportunity for employers to keep staff on unpaid sick leave for extended periods, which the government is trying to address.

The point raised by the LGA around APC limits also has relevance to this proposed change and officers support the LGA's position that the rates should be reviewed as part of any possible changes to Reg 15(6).

Officers have already highlighted in previous answers the difficulties in distinguishing different types of unpaid leave buy back and the LGA have identified various situations within the regulations where they do not feel the proposed changes to the three-year limit will have the intended effect for various scenarios.

In addition to the above, officers would wish to highlight the impact on employers of removing the three-year limit. Many LGPS scheme employers are small concerns or academy schools, but the issue also has implications for maintained schools. Budgets are tight for many of these organisations, and it is difficult for them to carry further financial burdens outside of yearly budget periods; for schools this could potentially affect their ability to set balanced budgets or impact provision of resources such as staffing. For some Fund admitted bodies, the current financial climate and additional burdens of increased national insurance rates can make any unexpected and unplanned additional costs the difference between financial viability and not being able to continue to operate. It would be reasonable for them to budget for these employer contribution costs for perhaps a period of a year or so, but 3 years is a long time to have to keep the contributions reserved in case they are required given the other financial demands faced by employers. Just as problematic is them not keeping the money set aside and then a member making an election some years hence as the employer may not be able to afford the cost at that time.

In summary it is the view of officers that this proposal requires further consideration and consultation on the areas highlighted before it is enacted.

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

Whilst officers agree that this proposal would help to address the gender pensions gap, as few women have the money to buy back lost pension right after maternity leave when they have probably had the lowest earnings of their life, employers will be paying the cost. Officers believe this will disproportionately have a much higher cost implication for schools compared to other employers in the fund. For schools in our fund, 35% of LGPS active members are under 40 years old, for non-schools' employers it is only 22%. One school has 60% active members under 40 years old. With approximately 75% of active members being female, this means it is likely that schools will have a higher percentage of LGPS active members using this benefit. As some schools have less than 10 active LGPS members, this could be a significant cost to them over time, possibly affecting employer contribution rate setting for academies at triennial valuations. Additionally, this will also affect male members in terms of the parental leave sharing so the range of potential staff affected by this change is greater than the numbers of female staff highlighted above. Officers feel it is important to highlight this issue, whilst supporting the principle of the proposal in the interests of members.

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

Officers support this proposal and feel it will help the government and the LGA identify inequalities in the scheme provisions between sexes. Additionally, officers would suggest that other big pension funds should also report on the same metrics so the gender pension gap across the UK can be examined. As approximately 74% of the LGPS membership is female, which is not reflected in UK population, the LGPS data is clearly not indicative of the population of the UK as a whole.

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

Officers believe this would not be easily achievable for the 2025 valuation, given the timescale and other competing current priorities for funds. Our fund has already sent off their data for the 2025 valuation. Therefore, if the government wishes to report on this, officers suggest they base it on information that will have already been provided so as not to put pressure on the officers of the fund. Moving forward, officers would support incorporating this data into annual reports and periodic valuation exercises. This would give funds time to develop the means to capture and incorporate this data into reports for this purpose.

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

Officers believe this is an impractical solution. There is no way for the fund to identify if an employer has more than 100 employees, the only data available to the Fund is scheme member numbers. This information is more readily available through auto-

enrolment exercises, which the Fund does not have any responsibility for. If the intention is to exclude employers with small numbers of staff and the requirement is for reporting to be carried out by funds, then it should be based on the number of active members, or total members in the scheme (those with benefits, so active, deferred benefits and pensioners). If a large employer only has small numbers of members in the LGPS fund, it could skew the results. The LGA's proposed number of 250 scheme members is very sensible and practical and it also aligns better with gender pay gap reporting.

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

Officers of the Fund require more information on how this term is defined, particularly if incorporating it into the 2025 valuation is required. This may also give skewed results as members can have a record in one fund of the LGPS as short as one day but might have a pension in payment in a different fund. Therefore, looking at one employer in one fund could give almost meaningless results as members are not obliged to transfer in or disclose details of any previous pensions. Their record in a particular LGPS fund may not be indicative of their pension over their typical working life.

Officers feel that whilst this is essentially what the gender pension gap fundamentally is, it is difficult to quantify these figures in isolation relative to one employment / employer. With the introduction of data dashboards, it might be more accurate for comparisons to be based on the combined data contained on this resource. However, whether the service histories contained there are completely reliable and comprehensive will also impact the results of any calculation based on it.

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

Officers believe this is a more useful measure as none of the government's changes will affect pension already built up. This will also circumvent some of the issues mentioned in question 23. Officers of the fund will require detailed guidance on how to report this. For instance, do we include transfers in since a big transfer in would skew the figures especially if it buys final salary service and the member is on a high final salary. Some consideration will need to go into which year buying back lost pension fits into, the year of the unpaid absence or the year the pension was bought. We believe it will be sensible to only include CARE pension built up, in the 2025 valuation. This will give time for further guidance to measure final salary benefits changes to be provided to relevant parties.

Officers comment that this may be an easier administrative way to provide data, however it isn't necessarily reflective of the overall pension provision accrued by members. Some older women may be in higher paying positions currently, so would

appear in this measurement as having reduced gender pension gaps, however, due to service gaps in earlier life, for example bringing up children, the rate and level of career and pay progression could have been adversely affected so not only could there be periods where they haven't accrued any pension benefits, but the level of benefits they are currently accruing may be less than they would have been had they not had the service break. Adding all of these entitlements together is a much more accurate measurement.

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

Officers do not agree that the annual report is the best reporting method for this data at this time as the administering authority will not have easy access to it. Employers are only required to inform the pension scheme about opt outs when the member joins through auto-enrolment. Otherwise, the Employer is not required to inform the fund, this means the fund will have no idea if any employees who opted out are even still employed. Employers also will not be able to easily access this data as they must understand the different types of staff - genuine opt outs, those who are not eligible, those with contracts less than 3 months who did not opt in to the LGPS, those who reach age 75 and must leave the scheme. This will be very complicated and require a lot of education of employers. We propose this is delayed so that there is sufficient time to educate employers on their responsibilities.

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

Officers do not believe this should be the administering authority's responsibility, this should rest with the employer. Officers of the fund have had difficulty for many years getting full and complete information from employers about relevant opt outs. There is often a long delay for employers to inform the fund that a member has opted out. Funds would be able to gather the information, but it would be an unnecessary use of their resources, and they would not be able to verify the numbers provided.

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

Officers comment that the approach taken will need to be consistent, providing clear guidance on whether reporting should be at an individual or post level. Many individuals have multiple posts and can opt out from several roles but be in the scheme in other roles. This is especially true for school staff. Officers would advise reporting on a post level. There is also the question of how workers who are not contractually enrolled in the LGPS, such as those with contracts under 3 months and casual workers, are treated for this purpose. Additionally, there is the question of how workers who work infrequent hours and who may not have worked for extended periods yet still being active on the payroll are treated. Officers agree with the LGA's response that these employees should be excluded from the reporting. There may be practical difficulties in identifying these groups of staff so thought may need to be given to how this can be achieved; it might require specific indicator fields to be populated on payroll systems for example which could prove to be challenging, given the number and range of employers in the LGPS. If reporting is intended to be done

as part of the Fund Annual Report then similar indicators would be required on pension administration systems and employers would need to provide far more comprehensive opt out information to administering authorities which would need to be recorded; this has the potential to be costly for Funds in terms of system changes and staffing resource time. There is also the issue of employers having sufficient knowledge of the LGPS rules around eligibility to participate in the Fund, which may further impact Funds in terms of providing information / training to employers.

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

Officers comment that LGPS funds should not be responsible for collecting any additional information about opt outs as holding special categories of information could have GDPR implications, as well as putting additional workloads onto staff in recording the data. Officers do agree with the proposal to issue an optional anonymous form for members to complete when they opt out, but it should be returned to Central Government for the data to be recorded. This will allow the government to better understand why members opt out, and to identify trends across groups with particular characteristics for purposes of addressing scheme uptake. The form can also be adapted easily to refine the information at a later date.

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

We are the officers of the fund, so we administer the scheme on behalf of the Administering Authority.

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

Please see comments provided in question 28. Officers also comment that making the provision of this information optional is the correct approach in terms of the individual's right of privacy. However, making it optional may not ensure a sizable enough percentage of people do actually submit it, which could skew any statistics drawn from the data. This might lead to assumptions on trends across certain groups being incorrect and trends across those not submitting the forms being missed. Some of the information this proposal is seeking to obtain would more easily be available from other sources, such as HR departments and registry records for events like births, deaths and marriages.

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

Officers comment that they agree with this proposal. It will address the issue of people leaving their employment as soon as they know they are being investigated in order to avoid the implications for their pension benefits.

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

Officers agree with this proposal and can see no good reason to keep this limit. It will bring the LGPS into line with other public service schemes.

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

Officers comment that they have not known this to have been used so do not believe it will make any difference to our organisation whether it is revoked or not. It is, by nature, unnecessary and as such, officers would support its removal from the regulations.

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

Officers agree with this proposal and comment that it is of utmost importance that this is applied consistently across both current and earlier schemes, no matter when a member left the LGPS. This will also be very helpful if historic crimes are identified.

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

Officers agree this would be extremely useful for employers, especially as this is a rare occurrence in the LGPS. It also brings the LGPS into line with other public pension schemes which is helpful in terms of consistency of approach.

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

Officers agree with this proposal and comment that this is sensible. But this does need to be put in place with enough time to action these cases before 31 August 2026, the end of the extended implementation period.

**Q37 – Do you agree with the government's proposal to cover deaths on 30 September 2023?**

Yes

**Q38 – Do you agree with the government's proposal to clarify if interest applies on Club Transfers?**

Yes

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

Yes

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

Officers do not agree with this proposal as it is currently detailed and comment that this will make the process overly complicated. The relevant date for the underpin calculation should instead be the guarantee date used in the calculation. This is the only practical solution. The LGA’s response gives greater detail on why this is important. We welcome further guidance about this and clarity over whether these would be backdated.

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

Yes

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

Yes

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

Yes

**Q44 – Do you agree with the proposed approach to PCELSs?**

Yes

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

Officers agree with this proposal and comment that they will require actuarial guidance on this.

**Q46 – Do you agree with the proposed amendments to the Regulations?**

Officers comment that they are very happy that these amendments are now being put in place, particularly with reference to retrospective directions, exiting employers, de-minimus payments for pre- 2008 leavers, bereaved paternity leave and 5-year refund changes. Officers would encourage MHCLG to review the scheme regulations more regularly and would particularly highlight the retained EU law changes as justification for this. These laws have been defunct since the UK left the EU and pensions legislation should not be referencing out of date laws.

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

Officers would appreciate clarity on the 5-year refund changes in terms of what reasonable steps should be taken to obtain information to pay refunds before age 75; some members who only hold a frozen refund are extremely difficult to trace, especially if they have left the UK. Officers would also like clarity on the position if a member has rejoined the LGPS after 5 years, in terms of whether the refund record could be aggregated to the new active record. Additionally, officers would appreciate guidance on how to deal with cases where the refund cannot be paid by age 75. Officers comment that they agree with the LGA that this amendment should apply to all refunds paid after the date the amendment of the regulations come into effect.

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

Officers comment that the delay in making these changes to the regulations will have a huge impact on the administration of the scheme when they finally come into effect. If these changes had been made within a shorter timeframe of the relevant court cases or the suggestion by the officers of the LGPS to make changes, implementation would have been much simpler. Implementation of all of these changes will be time consuming and labour intensive. Many of the changes will require extensive manual checking of records and manual calculation of arrears etc. New processes will need to be implemented, and teams trained. This is on top of the difficulties and changes brought about by Pensions Dashboard and McCloud remedy that have already stretched fund administration resources thin.

Increasing the resources within the LGPS administration is time consuming as it takes up to 5 years to train someone from scratch to position where they have the ability to manually calculate arrears of spouses pensions due to regulations changes. Many of the experts in LGPS administration are nearing retirement age so there is a knowledge drain within the LGPS. Most of the changes around the death benefits will have to be calculated by highly experienced staff, of which there are limited numbers across the UK.

Whilst officers fully support putting these changes into place, and delaying them would only compound the issue, we ask that the government takes into consideration the stress the whole of the LGPS is under at this time and does not set a deadline for administering all arrears. If a timeframe is set for implementation, it must be flexible and take into account that we do not know when Pension Dashboard live date will be. It would be helpful if these regulation changes were put into place after the Pensions Dashboard connection date for the LGPS of 31 October 2025.

Any changes that affect employers are generally very time consuming for the officers administering the fund. It is inevitably left to the officers of the fund to spot employers who are not properly implementing the regulations and to re-educate them on the rules.

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

Officers comment that the implementation of buying back lost pension for unpaid absences over 30 days requires much more clarity. The other responses officers have seen to this consultation, particularly the LGA response, highlight multiple areas requiring further consideration-and possible amendment before they can be practically implemented. Until all of these issues are addressed, officers do not feel these proposed regulatory changes should be implemented.

Another significant area the officers wish to highlight is the need for further consultation in relation to reporting of opt outs through annual reports.

An item not included in any of the proposed changes that could negate the proposed opt out changes would be to consider reintroducing mandatory LGPS membership for staff in scope. This would have the added benefit of ensuring the maximum number of local government staff benefitted from LGPS pension provision and reducing the numbers of individuals without the best possible pension provision at retirement, the result of which may be higher numbers dependant on state benefits. With the current financial climate, anecdotally officers understand that many members opt out due to financial difficulties in meeting cost of living expenses. Clearly this is something which would need to be addressed before compulsory membership of the LGPS could be taken forward but it may be something which should at least be an area for exploration.

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

The response to question 19 highlights the fact that the cost of the parental leave will fall to the Employer and this will have a more significant impact on small schools.

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

Nothing further to add

**Q52 – Do you agree to be contacted regarding your response if further engagement is needed?**

Yes