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Ministry of Housing,
Communities &
Local Government

Consultation outcome

Local Government Pension Scheme in England and Wales: Access and fairness - government response

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Introduction

The Local Government Pension Scheme (LGPS) in England and Wales plays a vital role in securing the retirement futures of millions of public sector workers. As one of the largest funded pension defined benefit schemes in the world, the LGPS is a significant investor with the potential to boost growth across the country, while delivering its core duty to make long-term stable returns to pay the pensions of those who have delivered vital local services.

The government's consultation "Local Government Pension Scheme in England and Wales: Access and Fairness" outlined the government's intention to change the Local Government Pension Scheme (LGPS) across four core policy areas, and a number of additional technical areas.

The intention of those changes was, and is, to both look at the past in fixing historic problems in the scheme and to look to the future. The government intends to improve the experience of the millions of hard-working members of the scheme and to ensure that people working to provide local services have access to the security in retirement that they deserve. That is why this crucial work is being conducted alongside significant reforms to investments and pooling in the scheme.

The proposals were outlined in a consultation document, published on GOV.UK on 15 May 2025, with an accompanying draft Statutory Instrument outlining the government's intended modifications to the LGPS Regulations. Respondents were invited to comment both on the proposals and the drafting, with the consultation closing on 7 August 2025.

This government response presents a summary of the proposals as consulted on, the responses received, and the government's intended action following consultation.

In total, 172 responses were received, from 49 administering authorities, 25 employers, 68 members, the LGPS Scheme Advisory Board, the Local Government Association, the Local Government Pensions Committee (LGPC), the LGPS National Pension Officer Group, 1 Government department, 4 unions, and a collection of other responses including think tanks, professional bodies, software suppliers and administration providers.

Taken together, the respondents were in the majority supportive of all but one of proposals as outlined. Particularly strong support was given for the principles of the proposed changes to survivor benefits and death grants

and the gender pension gap. Administering authorities were similarly strongly supportive of the additional regulation changes, with many suggesting that the changes would ease administration of the scheme.

Whilst most agreed that the changes proposed were important and, in some cases, overdue, there was a strong view that they would require careful implementation, to ensure the scheme would be able to deliver the change. Nearly half of the responses stressed the need for a lead-in period and/or phased implementation of changes, to help manage resource pressures, particularly in relation to staffing and software requirements.

Survivor benefits

The proposals in this section are intended to ensure the equalisation of the survivor pension entitlement of all members, regardless of the sex of the eligible member or their survivor, to retrospectively remove the requirement of a signed nomination form in the case of qualifying cohabitee survivors, to remove the age 75 cut-off on eligibility for death grants, and to remove the requirement on administering authorities to pay the death grant to the personal representative where it hasn't been paid with the 2-year limit.

Survivor pension entitlement equalisation

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

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

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

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

In Q1-4, the government asked for views from respondents on the proposed amendment of survivor benefits rules in the LGPS, with the intention of outlining proposals that would see survivor benefits amended to remove discrimination on the basis of sexual orientation.

Having identified that in the majority of cases the most generous survivor pension entitlement is that due to survivors of single-sex civil partnerships (SSCPs), the proposed amendments to the LGPS Regulations would ensure that survivor benefits are calculated by uplifting the entitlement of all

groups to either the entitlement due to survivors of SSCPs, or when that is not applicable, the entitlement due to female survivors of opposite-sex marriages.

The equalisation is being proposed in the context of *Goodwin v Secretary of State for Education, 2020*, where a female member of the Teachers' Pension Scheme (TPS) successfully argued that the TPS unlawfully discriminated against women in opposite-sex marriages or civil partnerships, when compared to women in SSCPs. The remedy being proposed here is similar to that applied in the TPS.

The proposed uplifting of benefits due to eligible members would be backdated to the point at which the underlying relationship types were recognised in UK law:

1. For widows of opposite-sex marriages and widowers of opposite-sex marriages, backdating for deaths that occurred from 5 December 2005.
2. For widows of same-sex marriages and widowers of same-sex marriages, backdating for deaths that occurred from 13 March 2014.
3. For survivors of opposite-sex civil partnerships, backdating for deaths that occurred from 31 December 2019.

Summary of responses

Overall, respondents were strongly supportive of the proposals in this section. 94% of respondents to Q1 agreed with the proposed amendment of survivor benefit rules. Comments made by those unsure of, or against, the amendments expressed concerns on the effect and benefit of backdating.

Comments on the proposed approach aligned with the strong support for proposals, whilst highlighting the complexity and need for guidance. Common topics for which guidance was requested were the treatment of child pensions, tax implications, trivial commutation, transfers out, data availability, and the effort administering authorities would be expected or required to make to identify eligible beneficiaries. The potential impact on survivors of members and complexities of reopening estates in historic cases was also raised.

The significant potential burden that the proposals would place on administering authorities and software suppliers was clearly flagged, with emphasis on the potential need to develop software and train staff, as well

as the general cumulative burden of identifying potential survivors and beneficiaries, recalculating benefits, calculating owed benefits, and making payments.

Many administering authorities held the view that a reasonable and practical timeline of implementation would be necessary, to allow them to understand their obligations and sufficiently plan for the implementation of proposals.

Our response

Given the strong support for the proposal, the government will proceed with the amendment of the survivor benefit rules of the LGPS and there will be no modifications to the policy intent. A number of comments were made on the complexities of implementation, which the rest of this response addresses.

Taking into account the comments on the complexity of the calculations and the need for guidance, the government will work with the Scheme Advisory Board to produce guidance addressing a number of areas, including those raised in responses. The topics that will be considered for inclusion in the guidance include, but are not limited to, the following:

1. treatment of child pensions where no survivor pension was paid to a partner previously
2. trivial commutation (both potential tax implications where trivial commutation was previously paid and individuals who with backdated payments would no longer be eligible for trivial commutation)
3. missing membership data
4. contacting survivors
5. responsibilities regarding the Data Protection Act 2018 and survivor information
6. guaranteed minimum pension for male survivors
7. impact on transferred out values
8. cost cap calculations
9. fraud considerations
10. interest on backdated payments
11. timelines for implementation of calculation and payment of backdated benefits

12. “best efforts” to be applied to backdated cases

From the point of introduction of updated legislation, all cases where eligible members have died must be treated in line with the updated legislation. For cases where the member has died before the point of introduction, administering authorities must treat those cases in line with any timings given in guidance and/or the final SI.

The government will consider the technical comments provided by the LGPSAB and other parties ahead of the finalisation of the SI.

Cohabitee survivor pensions

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

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

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

In Q5-7, the government asked respondents for views on the proposed removal of the current requirement in legislation that a surviving cohabitee of an eligible LGPS member must have been nominated by that member, in order to be eligible for receipt of a survivor pensions. The proposed remedy was that for any death that occurred between 1 April 2008 and 31 March 2014, qualifying cohabitees would be eligible for a survivor pension without a signed nomination form, providing they fulfilled all other current criteria in legislation.

The government made clear that its understanding of the signed nomination form requirement was that the majority of administering authorities had in practice disapplied the requirement, following a 2021 departmental [letter](#) and subsequent [statement by the LGPC](#).

The government also made clear its position that these changes are not proposed to be applied to a date earlier than 1 April 2008, on the basis that in making any changes to the LGPS’s rules the government is mindful to manage costs and pre-2008 schemes did not make provision for survivor pensions for cohabitees.

Summary of responses

Overall, respondents were strongly supportive of this proposal, with 87.7% of responses in this section agreeing with the proposal to formalise the removal of the nomination requirement (including all bar one fund, which was unsure), 5.8% being unsure and 6.5% disagreeing. A large proportion of administering authorities confirmed that they had already applied this in practice, following the 2021 letter. A small number of administering authorities confirmed they had not done so and considered this proposal would generate a large amount of administrative work in reassessing cases between 2008 and 2014, for a potentially small number of beneficiaries. Similarly, some comments were made on the expected difficulty in identifying eligible beneficiaries. On this point, software providers indicated they believed they could provide some support to administering authorities in recalculating benefits, but that initial identification of potential beneficiaries would be reliant on sufficient data.

With regards to guidance, administering authorities asked for guidance across a number of topics, including, but not limited to: breaks in cohabitation, evidence requirements, previously taken decisions, would-be beneficiary death, child pensions and the timelines and process of backdating.

A small number of comments challenged the rationale of excluding pre-2008 co-habiting partners from survivor benefit eligibility.

Our response

Given the strong support for the proposal, the government will proceed with the amendment of the survivor benefit rules of the LGPS as proposed. The requested areas for guidance to cover will be reviewed with the LGPSAB, with the intention of producing guidance that makes clear the responsibilities and rights of administering authorities, members and beneficiaries.

Regarding the decision to not backdate eligibility earlier than 1 April 2008, the government's position remains that as pre-2008 schemes did not cost in survivor benefits for cohabitants, it would not be appropriate to now make cohabitants eligible. Whilst government understands the frustration this could cause individuals, the long-term sustainability of funding and costs is reliant on stable assumptions.

Death grants (age 75 cap)

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

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

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

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?

In Q8-11, the government asked for views on the proposed removal of the age 75 cap on death grant eligibility, in the context of current and planned increases in State Pension Age and Normal Pension Age in the LGPS, and the removal of the age 75 cut-off from overriding legislation.

The removal of the age 75 cap was proposed to apply to the deaths of any members on or after 1 April 2014, to align the change with the corresponding change to the LGPS in Northern Ireland.

Summary of responses

Overall, respondents were strongly supportive of this proposal. 97.4% of respondents (including all administering authorities) agreed with the removal of the age 75 cut-off and responses commonly mentioned the alignment between the proposals and increases in working and retirement ages in the LGPS and wider society.

Respondents largely focussed on two themes – the expected difficulty in identifying beneficiaries and the associated need for guidance. Administering authorities differed in their expectations of the difficulty in identifying eligible cases, but commonly agreed that they expected the identification of beneficiaries would be particularly administratively burdensome and guidance would be welcomed. On guidance, a small number of respondents requested specific guidance on the tax treatment to be applied to backdated payments.

A number of members expressed an expectation that administering authorities should already be equipped with software and records that allow the backdating to take place, and a software supplier confirmed their expected ability to identify members in scope, subject to legacy data being in place.

A small number of respondents disagreed with the proposal to backdate to 1 April 2014, instead advocating for backdating to all deaths on or since 6 April 2011, being the date of the change in the overriding legislation.

Our response

Given the strong support for the proposal, the government will proceed with the removal of the age 75 cut-off on death grant eligibility. To keep the LGPS in England and Wales consistent with the LGPS in Northern Ireland, the change will be backdated to all deaths on or since 1 April 2014.

Taking into account the requests for guidance, the government will work with the LGPSAB to produce guidance addressing a number of areas, including those raised in responses. The topics that will be considered for inclusion in the guidance include, but are not limited to, the following: tax treatment of backdated payment, interest on backdated payments, and lifetime allowance implications.

Death grants (personal representatives)

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

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

In Q12 and Q13, the government asked respondents for views on the proposed removal of the current requirement that if an administering authority has not paid a member's death grant within two years of their death, then it must pay the death grant to the member's personal representatives, making it subject to a 45% charge. The proposal was made in light of the Finance (No.2) Act 2015's amendment of the Finance Act 2004, the effect of which is that death grants can also now be paid to a member's beneficiaries, and be subject to the recipient's marginal tax rate. The intent was that this would apply to all deaths where the death grant has not been paid, from the date of policy implementation.

Summary of responses

Respondents strongly supported this proposal, with 95% of respondents agreeing.

A number of administering authorities requested guidance on the approach to be taken with regards to cases in progress, but with payment not yet made.

A strong majority of comments supported the greater tax efficiency afforded by this change, particularly for beneficiaries not familiar with current legislation or subject to the two-year limit through no fault of their own. Comments highlighted both the potential usefulness of the current two-year

limit in encouraging beneficiaries to respond to requests for information, and the opportunity for greater due diligence allowed by the removal of the 2-year limit.

Respondents requested that this removal should apply to backdated payment of death grants for age 75 cap. A small number of respondents also requested clarity on the implementation date and application of new legislation to cases over the two-year limit but not yet paid.

Our response

Given the strong support, the policy will be implemented as outlined in the consultation.

With regards to guidance, the government will consider the production of guidance on topics including, but not limited to: in-process cases (including those over the two-year limit but not yet paid), additional voluntary contributions, and tax considerations.

The government understands the views of respondents that the two-year limit has been useful to some administering authorities in creating a deadline for cases to be resolved, but considers this usefulness to be outweighed by the current lack of flexibility for individuals to receive death grants beyond the two-year limit, often through no fault of their own.

Gender pension gap

This chapter outlined the government's proposals to address the Gender Pension Gap (GPG) within the Local Government Pension Scheme. The government made a number of proposals:

- to make authorised unpaid absences under 31 days automatically pensionable
- to make the cost of buying back authorised unpaid leave over 30 days the same as what a member would have paid if they had not taken any leave, and to extend the time limit to buy back pension "lost" in this way
- to make additional maternity leave, additional adoption leave and shared parental leave during which no pay is received automatically pensionable, with the cost to be met by the employer
- to make gender pension gap reporting mandatory from the 2025 valuation.

Authorised absences under 31 days

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

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

Questions in this section asked for views on the government's proposals on authorised absences under 31 days. Questions included making authorised unpaid leave automatically pensionable and which method to do so. This is to address smaller unpaid absences for reasons such as caring responsibilities, which data suggests are more likely to be taken by female members.

Summary of responses

86% of respondents were supportive of the proposals for unpaid leave under 31 days to be automatically pensionable. Several respondents noted that it would make the system fairer and ease administrative burden.

A number of administering authorities and local government representatives expressed a preference to set the threshold at which authorised absences are automatically pensionable lower than 31 days. The most commonly suggested threshold was 14 days. Respondents felt that this would still deliver the policy intent and address short breaks for family emergencies, but were concerned that the 31 days threshold could mean that compulsory member contributions were not collected in the same pay period as the unpaid leave.

73% of respondents agreed with the government's proposal to use actual lost pay to calculate contributions in such circumstances, with a further 20% unsure. Several respondents said that assumed pensionable pay would be more complex to administer than lost pay.

Our response

Given the high percentage of respondents that agreed with the proposals, the government intends to proceed to make authorised unpaid leave automatically pensionable, but will change the threshold to 14 days. The new regulation 11(5) that the government consulted on will read "for a continuous period of less than 15 days".

The government will proceed with the proposal to use the actual lost pay method to calculate contributions.

Cost of buying back pension lost in an unpaid break of over 30 days

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

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?

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

Questions in this section asked questions about the cost of buying back unpaid leave over 30 days, and how long a member should have to choose to buy back unpaid leave.

Summary of responses

93% of respondents supported aligning the cost of buying back unpaid leave over 30 days with standard member contribution rates. Respondents said that the proposal would be both fairer and more affordable. A minority of respondents raised concerns about the administrative challenges of the new proposal.

80% of respondents were supportive of changing the time-limit to buy back unpaid leave, from the current 30 days to one year. There was broad support for giving members more time to understand their options, and many respondents said it was important for employers to communicate the option better to members. A small number of respondents raised concerns with the proposal to give members a year to decide to buy back unpaid leave, even if they leave employment before the year is over.

There were more mixed responses to removing the three year limit on compulsory employer contributions on unpaid leave. 58% agreed with the proposal, noting that the current limit is arbitrary. A significant minority did not think Regulation 15(6) of the LGPS Regulations 2013 was an issue and stated that there may be certain cases, where a member has been on a very significant length of unpaid leave, which would be complex to administer were this amendment to be made.

Our response

Given 93% of respondents agreed with aligning the cost of buying back unpaid leave over 30 days with standard member contribution rates, and 80% agreed with changing the time-limit to buy back unpaid leave, the government intends to proceed with both proposals. Since the government now intends for a threshold of 14 days for authorised unpaid absences to be automatically pensionable, instead of the 31 days threshold consulted on, there is a corresponding change to this proposal, and the cost of buying back unpaid leave over 14 days will be aligned with standard member contribution rates. The government does recognise the concern about members who leave employment before the time-limit of a year has passed, and will change Regulation 16(16) of the LGPS Regulations 2013 to provide for one year, or when the member leaves the employment, whichever is sooner. The statutory instrument will introduce a new definition to the LGPS Regulations 2013, of a Qualifying Additional Pension Arrangement, to distinguish between additional pension arrangements made under this new proposal and those made under existing regulations.

Given mixed views on the proposal to remove the three-year limit on compulsory employer contributions on unpaid leave, the government intends to proceed, but instead of removing the three-year limit entirely, the government will allow scheme employers to continue to contribute beyond three years, as an employer discretion.

Pension contributions during child-related leave

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

This question asked for views on the government's proposals to amend the definition of child-related leave to include unpaid additional maternity, additional adoption and shared parental leave, making such leave automatically pensionable at the employer's cost.

Summary of responses

81% of respondents supported this proposal, saying that it would contribute to reducing the GPG. In particular respondents welcomed the government's proposal to include shared parental leave. Some concerns were raised about the resulting changes to payroll systems, as well as a minority of respondents who raised the employer cost of the proposal. Other respondents said they did not believe the cost would be significant.

Some clarifying questions were asked, such as if the proposal was retrospective, whether lost pay or assumed pensionable pay would be

used, and what the impact may be on shared cost additional voluntary contribution (SCAVC) schemes.

Our response

Given the strong majority in support of the proposal, the government intends to proceed with the amendment. The amendment and will, in the same way as the proposals on child-related leave and authorized absences less than 15 days parental leave, come into effect where the relevant leave starts on or after 1st April 2026. The government intends to develop guidance alongside the LGA on matters of implementation.

Making gender pension gap reporting mandatory in the LGPS

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

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

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

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’?

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’?

Questions in this section sought views on mandatory gender pension gap reporting, including on where reports should be published, definitions, and employer-level reporting.

Summary of responses

75% of respondents agreed that gender pension gap reporting should be mandatory, with remaining respondents evenly split between disagreeing or being unsure. Some respondents raised questions about what the data would be used for, as well as comments about the burden of collecting and reporting such data, and in particular the difficulty in getting employers to comply.

56% of respondents agreed that gender pension gap reporting should be published in valuation reports. Many of those that disagreed, as well as of those that agreed, said that implementing all of the government's proposals in time for 2025 actuarial valuation reports was not realistic.

Only 29% of respondents agreed with the proposal for a threshold of 100 employees to define which employers must be included in gender pension gap reporting. Some suggested that the threshold should align with pay gap reporting which sets the threshold at 250. The issue most raised was that administering authorities only hold data on LGPS members, and not employees.

58% of respondents agreed with the proposed definition of the gender pension gap, and 64% with the proposed definition of the gender pension saving gap, with around a quarter of respondents unsure.

A minority of respondents felt that the wording "over a typical working life" could be difficult to define and difficult to compare between different authorities, and instead suggested pension accrued to date as easier to measure, and a better measure. Several respondents raised the need for actuarial guidance on how gaps should be calculated.

Our response

Given that the majority of respondents were supportive of the proposal for mandatory gender pension gap reporting in the LGPS, the government intends to proceed, but does recognise that there is limited time ahead of 2025 actuarial valuation reports.

The government will therefore require a limited form of gender pension gap reporting for 2025 only. Only gender pension gap reporting will be required for 2025, not gender pension saving gap reporting, and the definition will be pension accrued to date instead of "over a typical working life". Reporting at the employer level will not be required for 2025, and actuarial valuation reports will only need to split its gender pension gap reporting between employer category groups, as already defined by SF3 reporting. Gender pension gap reporting will not be mandatory within the rates and adjustment certificate, but can be its own section within the actuarial valuation report. The Government Actuary's Department has engaged with actuarial firms and will issue guidance shortly.

Following the 2025 valuation, the intention is to work with the sector towards fuller gender pension gap reporting for the 2028 valuation. The intention for 2028 is to include a form of employer-level reporting, although the government recognises the issues with the 100 employee threshold.

The intention for 2028 is also to include gender pension saving gap reporting, and to move towards a definition “over a typical working life”. The government will work with the Government Actuary’s Department and the sector ahead of the 2028 valuation to define this reporting.

Opt-outs

Publication of opt-out data in the Annual Report

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

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

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

Questions 25-27 covered proposals for administering authorities to collect opt-out data (via employers) and publish the rate of opt-outs in annual reports.

Summary of responses

77% of respondents agreed that the annual report was the most suitable location to publish the rate of opt-outs. Of those responses, there was agreement that data on opt-outs is important, that the annual report was a logical place for the data to be presented, and that this approach would make information accessible and available to all.

51% of respondents raised potential issues with administering authorities’ ability to collect data on opt-outs. The points most raised were about the time needed to collect such data, and difficulty in getting information from employers. Respondents also raised concerns around particular groups of employees, such as employees with contracts under 3 months, employees who may be eligible for other pension schemes, or employees over the age of 75. There were also concerns raised about GDPR requirements arising from the collection and storage of personal data.

Respondents raised a number of topics they would like to see covered in guidance, including the definition of an eligible member, the reporting date to be used and calculation of an opt-out percentage. Some comments also suggested additional data that could be collected, including nature of

employment, demographic data, reason for opting out and duration of service.

Our response

The majority of respondents agreed with the principle of collecting data about the rate of members opting out and publishing it in the annual report, and the government intends to proceed with the proposal.

The government does however recognise the need to clarify what data is expected, and an updated version of annual report guidance will be published. The collection of opt-out data is intended to gather evidence about the rate of opting out by people who are eligible to join the LGPS and choose to opt out, and the guidance will set out that those on contracts under 3 months, and those over the age of 75, should not be included, nor should employees who are eligible for another public service pension scheme. The guidance will also clarify other questions such as reporting dates.

The government recognises that administering authorities will rely on employers for opt-out data. Employers are already required to provide administering authorities with any information required for discharging scheme functions, under Regulation 80 of the LGPS Regulations 2013. The government will amend Regulation 80, to specify that opt-out data must be provided. The government will require opt-out reporting to start from the 2026-27 scheme year, and be published in annual reports required by December 2027. This timeline is intended to give time for administering authorities to work with employers on the new requirements.

The government has considered GDPR concerns for the collection of opt-outs information. As the only data to be collected and published through the annual report will be the rate of opt-outs, rather than any identifiable data on individuals, there will be no GDPR implications.

Collection of additional opt-out data

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

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

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

Questions 28-30 covered the collection of additional data directly from those opting out of the scheme, as separate from the proposal for administering authorities to publish the rate of opt-outs. The proposal was for a new online form, that members will be encouraged to fill in but that will not be mandatory. The form will be created and managed by MHCLG, and data provided will be held by MHCLG, not administering authorities.

Summary of responses

66% of respondents agreed with collecting additional data on opt-outs, citing the benefits of having additional data to identify why people decide to opt out of the scheme. There were some concerns around the voluntary nature of the form, questioning whether members would realistically fill it in if they didn't have to. As an alternative, some suggested research into opt-out rates with specific employers and administering authorities.

Of those opposed to the proposal, the key concerns were about additional workload, GDPR requirements and questions around the purpose of collecting this data.

Our response

The majority of respondents agreed with the collection of additional opt-out data, and the government intends to proceed.

The government's intention is for the collection of additional data to contribute towards future policy thinking around opt-outs and wider thinking around issues of membership such as auto-enrolment.

Since the government will create an online form for members to fill in when opting out, MHCLG will be the data controller. No data needs to be held by the administering authority or employer, and so there are no additional data retention requirements, nor significant workload except for signposting members to the form.

The government acknowledges that the voluntary nature of the form may lead to lower response rates. A similar form is used in the LGPS in Northern Ireland and take-up is relatively high, but the government will regularly review if the form is being widely used or not. The government agrees that further research may be helpful, and, depending on the responses to the form, will consider other forms of research about opt-outs.

Forfeiture

The proposals in this section are intended to amend forfeiture regulations to make the process work better and fix known issues with current regulations. Proposals include:

- to remove the requirement that a member must have left employment because of the offence for forfeiture to be possible
- to abolish the current three-month time limit for an application to be made
- to remove the current regulations around interim payment directions
- to publish guidance on making a forfeiture application

Removing the requirement that a member must have left employment because of the offence

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

This question asked for views on the government's proposal to remove the current requirement that a member must have left employment because of the offence for forfeiture to be possible. The government believes this requirement creates a loophole which prevents forfeiture, where a member is convicted in connection with their employment, but the member has already left the employment before the crime was discovered. The proposal was to close the loophole.

Summary of responses

81% of agreed with the proposal, agreeing that the current arrangement creates a loophole that should be fixed. There were also comments that it was necessary to align with other public service schemes.

The most raised concern was about over-reach by employers (6 respondents) leading to a risk that forfeiture could be used against current employees in inappropriate circumstances. 3 respondents did not agree with the concept of pension forfeiture at all, arguing that employee contributions should never be withheld.

Our response

Considering the large majority in support of the proposal, the government intends to proceed with the amendment. The government believes that other existing requirements, such as the Secretary of State certifying that the offence was gravely injurious to the state or liable to lead to a serious loss of confidence in public service, act as a safeguard against employer over-reach.

Removing the time limit to make a forfeiture application

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

This question asked for views on the government's proposal to remove the current 3-month time limit for forfeiture applications. This flexibility was intended to help employers make applications, particularly in complex cases where there is a lot of evidence to gather.

Summary of responses

83% of respondents agreed with the proposal, agreeing that the current time limit can make it more difficult for employers to make an application. A small minority of respondents felt that setting no time limit at all puts too much power in the hands of the employer, and that there should be a longer limit, such as a year.

Our response

Considering the large majority in support of the proposal, the government intends to proceed with the amendment. No time limit will be set, in line with other public service schemes.

Revoking Regulation 92

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

This question asked for views on revoking regulation 92, which the government believes is unnecessary and not commonly used. This regulation allows a scheme employer to make interim payments to a person who would be entitled to receive a benefit payment if a forfeiture direction was not given.

Summary of responses

23% of respondents to this question had not encountered Regulation 92 before, and so answered “I am unsure”.

71% of respondents agreed with the proposal. Most agreed that benefits could be paid using standard powers up until the point at which a forfeiture direction is made, and some thought that having two powers for the same period was confusing.

14 respondents, including the LGPC, a LGA committee providing technical advice and information on the LGPS, raised the question of how an administering authority should treat requests from a member to take benefits, where a forfeiture application has already been made. This can occur either where the application has been made but the Secretary of State has yet to decide whether to issue a forfeiture certificate, or where a forfeiture certificate has been issued but the employer has yet to issue a forfeiture direction. The concern is that the member may take choices to avoid or limit the impact of a potential forthcoming forfeiture direction, such as by taking the maximum lump sum or transferring their pension out of the LGPS.

Our response

Considering the large majority in support of the proposal to revoke Regulation 92, the government intends to proceed with the amendment.

The government recognises the concerns about decisions members may take to avoid or limit their exposure to forfeiture, and agrees that forfeiture should not be avoidable. The government intends to bring forward further amendments to close this loophole.

Forfeiture in relation to benefits accrued in earlier schemes

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

This question asked for views as to applying the changes above to earlier schemes.

Summary of responses

79% of respondents agreed with the proposal. 9% did not agree, with the reason given most often disagreement with the concept of forfeiture as a whole, and therefore its extension to previous schemes.

Our response

Considering the majority in support of the proposal, the government intends to proceed with the amendment.

Forfeiture guidance

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

This question asked how helpful forfeiture guidance would be to employers.

Summary of responses

95% of respondents said that guidance would be helpful. Multiple suggestions were made for the content that guidance should cover, including:

- clarifying eligibility criteria;
- defining the Department's expectations for evidence;
- clarifying expected timelines, decision-making, and communications;
- addressing potential appeals or legal challenges;
- dealing with members who ask to transfer out or take benefits whilst an application is pending;
- dealing with cases where monetary loss to the employer has occurred.

Our response

Considering the large majority in support of the proposal, the government intends to proceed and will draft guidance, in collaboration with the Scheme Advisory Board. The guidance will cover the areas raised at consultation.

McCloud remedy

In October 2023 MHCLG laid a set of LGPS regulations relating to the McCloud remedy, which address the findings of the McCloud case for public service pension schemes and the finding of age discrimination. The proposals in this section of the consultation covered outstanding issues on how the McCloud remedy should be implemented, and in particular issues that have only been identified now administering authorities are working through remedy calculations.

Divorce credits

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

This question asked for views on the government’s proposal to amend Regulation 12 of the LGPS Regulations 2023, which covers cases of divorce. Regulation 12 provides that for members who were divorced (or dissolved a civil partnership) before 1st October 2023, any additional pension they receive as a result of the McCloud remedy (estimated or in payment), must be split with their ex-spouse, in accordance with any pension sharing order. The proposal was to amend Regulation 12 so that it can apply to both a pension credit and debit, to facilitate recalculating member’s pensions to comply with pension sharing orders that arise from divorce.

Summary of responses

66% of respondents agreed with this proposal and 10% disagreed.

Most respondents agreed with the principle that, where the ex-partner’s pension benefits increase due to the McCloud remedy, the pension sharing order should apply to those benefits. There were however several questions about implementation. The most raised concern was about the need to recover overpayments, followed by respondents commenting on the burden of applying the proposal retrospectively. Several respondents asked for detailed guidance.

Respondents who opposed the proposal argued that the change was too complicated and disproportionate, especially considering that there are relatively few members in scope.

The Local Government Pension Committee also raised several technical questions about implementation.

Our response

The government believes that the principle is important that a pension sharing order should apply to all pension benefits, including those recalculated by the McCloud remedy, in accordance with section 29(1) of the Welfare Reform and Pensions Act 1999. However, the government does recognise the complexity in asking administrators to retrospectively revisit divorce cases, particularly in cases where an overpayment would be created.

As such, the government will proceed with the change to regulation 12 that was proposed at consultation, and recalculation will be required. However,

it will be up to each administering authority to decide what action they take in respect of any overpayments which have arisen due to this change.

Death grants on 30 September 2023

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

This question asked for views on the government’s proposal to fix an unintended oversight between the LGPS Regulations 2013 and 2023, which meant that deaths on the 30th September 2023 would not be eligible for a death grant.

Summary of responses

95% of respondents agreed with the proposal, on the basis that it clearly fixes an oversight in the 2023 Regulations.

Our response

The government will proceed with this amendment.

Interest on Club transfers

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

This question asked for views on the government’s proposal to address an inconsistency between the Club Memorandum which sets out the rules on transfers between public service pension schemes and Regulation 14(3) of the LGPS Regulations 2023.

Summary of responses

80% of respondents agreed with the proposal, and 3% disagreed.

Our response

The government will proceed with this amendment.

Interest on Part 4 tax losses

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

This question asked for views on the government's proposal to address an inconsistency between the LGPS Regulations 2023 and Treasury Direction 37. The proposed change would ensure that member receive interest on certain tax losses arising from the McCloud remedy, in a consistent manner.

Summary of responses

85% of respondents agreed with the proposal, saying that consistency was important. 1% of respondents disagreed.

Our response

The government will proceed with this amendment.

Transfers from other public service schemes for members over 65 years old

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

This question asked for views on the government's proposal to create a mechanism to give an underpin date to members who transfer in from another public service scheme after age 65, and who have protected benefits from their prior service before and after age 65 to ensure they benefit from the McCloud remedy.

Summary of responses

80% of respondents agreed with this proposal, and the principle that the McCloud remedy should be extended to such members. Most respondents acknowledged that implementation could be complicated, and several asked for guidance. LGPC raised several points to address through guidance, such as ensuring that only members with no continuous break in active membership of a public service scheme are eligible, or how late retirement increases should be calculated.

A number of respondents, including the Local Government Pension Committee, argued that it would be simpler to use the transfer guarantee date, which is the date on which the pension fund calculates the value of benefits for a transfer quote, instead of the date that transfer payment is made.

Our response

Considering the support for the principle behind the proposal, the government intends to proceed with the amendment. However, the government does recognise the arguments around using the transfer guarantee date and will change the amendment to use the transfer guarantee date for Club transfers.

The Government will work with GAD and LGPC to develop guidance to assist authorities implement the change.

Other regulation changes

This section of the consultation contained several technical proposals, intended to fix known issues raised by administering authorities and administrators.

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?

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

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

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

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

In questions Q41-45, the government asked respondents for views on the proposed approach to be taken in the LGPS following changes in overriding legislation that effected the abolition of the lifetime allowance (LTA), and introduction of the lump sum allowance (LSA) and lump sum death benefit allowance (LSDBA).

Q41 asked for views on the proposed removal of Regulation 50 and its equivalents from the LGPS Regulations, given the purpose of Regulation 50 in effecting the now-abolished LTA.

Q42 asked for views on the proposed withdrawal of the actuarial guidance issued under Regulation 50.

Q43 asked for views on the proposed amending of the definition of a Benefit Crystallisation Event (BCE) in the 2013 Regulations, to provide clarity on their definition following the LTA and PCELS changes.

Q44 asked for views on the proposed approach to be taken with regards to payment Commencement Excess Lump Sums (PCELSs), in line with the allowance of the Finance Act 2024 for respective scheme rules to define the approach to be taken.

Q45 asked for views on the proposed issuing of updated actuarial guidance on the treatment of PCELSs.

Taken together, the questions were intended to gather views across the various elements of a new approach that would allow maintain the same proportion of benefits that members can crystallise at each BCE before exceeding tax relief.

Summary of responses

Respondents were overall in favour of the proposed new regime, with responses to each question indicating strong support for each element of the proposal (across all questions in this section, an average of 69.8% of respondents agreed with the proposals).

For Q41, 71% of respondents were in agreement, 4% against, and 26% unsure. Comments from those who were unsure or against the proposal spoke of a lack of the understanding about the impact of proposals needed to be able to make a judgement. Of those in favour, comments highlighted the appropriateness of the proposal in light of the abolition of the Lifetime Allowance by the Finance Act 2024, with the benefit of simplifying and clarifying the LGPS Regulations.

For Q42, the majority of respondents (67%) were in favour of this change, with 5% against it and 28% unsure. Of those who were in favour, comments agreed with the withdrawal of the actuarial guidance linked to Regulation 50, if Regulation 50 is removed. They also supported the removal of guidance to align with the removal of the Lifetime Allowance. Those unsure about the proposal commonly identified a lack of understanding of the potential impact of proposals.

For Q43, the majority of respondents (67%) were in favour of this change, with 5% against it and 29% unsure. Those in support of the proposal agreed that the change was necessary to align the LGPS Regulations with the Finance Act 2004 as modified by the Finance Act 2024, and would have the effect of providing clarity to scheme administrators. A small

number of responses suggested the proposal should be made to have backdated effect from 6 April 2024, to fully align with the Finance Act 2024. Of those unsure about or against the proposal, comments commonly identified a lack of understanding of the technical detail of the proposal.

For Q44, the majority of respondents (69%) were in favour of this change, with 3% against it and 28% unsure. Of those who were in favour, comments made welcomed the clarity provided by the change and agreed with the proposed lump sum allowance of 25% of capital value of benefits being crystallised. Also raised was the need to make changes accessible and understandable to members. Comments from those unsure about, or opposed to, the proposals commonly identified a lack of understanding of the technical nature of the proposals.

For Q45, the majority of respondents (75%) were in favour of this change, with 3% against it and 22% unsure. Of those in favour, respondents agreed that guidance would be welcomed and would bring consistency of approach and clarity. A number of respondents requested that guidance covered the approach to be taken regarding live PCELS cases. Comments from those unsure about, or opposed to, the proposals identified a lack of understanding of the technical nature of the proposals.

The overall sentiment of comments was that the changes were appropriate, following the updates to overriding legislation.

Our response

The government will implement the policies as outlined in the consultation document. The proposals to amend the definition of a BCE will have effect from the date that the updated legislation comes into force, not be backdated to 6 April 2024, as transitional provisions in the Finance Act 2004 mean that there is no material difference in the way that the provisions have effect based on either of these commencement dates.

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

In question 46, the government asked respondents if they agreed with the proposed technical amendments to the Regulations, primarily as outlined in the draft Statutory Instrument published alongside the consultation document.

Summary of responses

70% of respondents to this question were supportive of the proposed amendments, 27% were unsure and 4% disagreed.

Of the clear majority who were supportive of the proposals, several respondents said that it was good to see the Department responding to long-standing issues and hoped for similar reviews of scheme regulations to happen more regularly.

Some respondents who indicated they were unsure provided comments explaining their reasons, with a strong majority saying a lack of understanding of the scheme and the complexity stopped them from giving their full support. Of the very small number of those who disagreed with the amendments, only one response pointed to specific details of regulations with which the respondent disagreed.

Specific points were raised about the proposal for Additional Voluntary Payments (AVCs), where 6 respondents were concerned about having to administer small “orphan” AVCs, and the interaction between AVCs and the forthcoming Pensions Dashboard was raised.

Separately, 4 respondents raised a concern that removing references to the European Union may have unintended consequences, in particular relating to Independent Registered Medical Practitioners (IRMPs) whose medical qualifications are from an EU state.

Finally, a number of respondents made comments on the proposals relating to 5-year refunds. Respondents generally supported the change and the flexibility it would provide to administering authorities. Some respondents felt the changes needed further detail to resolve the issues administrators currently face and asked for guidance to be provided on whether the change would be backdated and the effort administering authorities should make to identify eligible individuals, both before and after the age of 75.

Our response

Given the strong support expressed, the Government intends to proceed with all amendments in Chapter 6, subject to the below.

Whilst the government understands the concern raised by a small number of respondents about “orphan” AVCs, it is important to give people freedom to manage their pension savings as they see fit. The government will consider the interaction between “orphan” AVCs and the Pensions Dashboard.

The government understands the concern about IRMPs whose qualifications are from an EU state, and in particular what impact this might have on members who had ill-health retirement on the opinion of such a

IMRP between the date of UK exiting the EU and now. The government will change the coming into force date of this amendment to avoid any issue arising.

Regarding 5-year refunds, the government will work with stakeholders to further develop the Statutory Instrument and guidance. That work will include, but not be limited to, considering the approach to be taken by administering authorities when seeking to make payment of 5-year refunds in the run-up to a member reaching age 75. Guidance may also define the process to be followed by administering authorities in relation to all 5-year refunds not yet paid at the date of implementation of legislation.

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

In question 47, the government asked respondents for views across all proposals in Chapter 6. This was intended as a question to encourage respondents to share any further comments not previously captured.

Summary of responses

Responses to this question raised a number of very minor detail with regards to the drafting of the proposed regulations.

Our response

The government will consider the drafting suggestions made ahead of the laying of any Statutory Instruments.

Administrative impact of proposals

The government sought views on the administrative impact of implementing multiple changes at once, as well as on the cost of proposals.

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

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

The government asked for views on the overall administrative burden of the proposals outlined in the consultation, particularly in the context of the already significant pressures faced by LGPS administrators. The government also asked in which order proposals should be implemented.

Summary of responses

More than half of respondents (61%) expressed concerns about the administrative impact of the combined proposals, particularly at a time of competing demands from ongoing projects. Nearly half of respondents (46%) asked for phased implementation. 19% of respondents raised concerns about the cost of implementing the proposals, with some disagreeing that costs should be borne by the scheme and questioning whether the new burdens doctrine should apply.

20% of respondents highlighted the need for clear, timely and practical guidance to support the successful implementation of proposals, especially regarding retrospective changes.

As to which proposals should be implemented when, 34% of respondents said that gender pension gap reporting and opt-out reporting should have a later implementation date, to give time to clarify methodology and make any necessary software changes.

Some respondents suggested that particularly complicated changes - such as those to survivor benefits and death grants, PCELS introduction and tax calculations, AVC flexibility, pre-2008 commutation and refund rules – should be delayed. In particular, there was widespread concern about the backdating required for the survivor benefits and death grant changes. On the other hand, some respondents said that changes in these areas are long overdue and should be brought forward quickly for members.

Our response

The government recognises the concerns about administrative impact and will proceed with a phased implementation. There will be two phases, with the first round of changes required for the start of the 26-27 year, and the second phase later in 2026.

The government will prioritise areas where it believes there is existing discrimination. The government view is that these proposals are overdue and corrections must be made as quickly as possible to deliver equal access. The first phase will prioritise those proposals, in addition to those where it is perceived that there would be a benefit to the Scheme in earlier implementation:

- survivor benefits and death grants
- gender pension gap (unpaid absences)
- gender pension gap reporting (reduced version for 2025)

- McCloud remedy
- lifetime Allowance
- including Combined County Authorities as Scheme Employers

The government intends to implement all other proposals in a second phase later in 2026:

- gender pension gap reporting (fuller version ahead of 2028)
- opt-out reporting
- forfeiture
- all other regulation changes

Where appropriate, guidance will be developed in collaboration with stakeholders such as the Scheme Advisory Board.

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

In question 50, the government asked for comment on the government's position that additional costs from the proposals would be covered by the LGPS and fall outside the scope of the New Burdens Doctrine.

Summary of responses

34% of respondents had no comments on the proposed approach to cost.

Among those who did, several pointed out that the costs on implementing the proposals would fall heavily on administering authorities and scheme employers, with a disproportionate impact on small employers. Others stressed that costs should be proportionate to the outcomes achieved.

Some respondents highlighted how overall cost will be dependent on the need for additional resources, such as increase in staffing numbers and software development.

When it comes to the responsibility for costs, the opinions expressed varied. Few respondents believe that it is appropriate for funds to bear the costs. Others believe that the costs should be shared with or covered, fully or partially, by the government, particularly under the new burdens doctrine.

Our response

The government believes these changes are vital to improving the access and running of the scheme, and as such consider the costs normal costs of administration, unless otherwise specified.

Public Sector Equality Duty

The government is under the Public Sector Equality Duty (“PSED”) and must meet this legal duty to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people who share a protected characteristic and people who do not share it
- foster good relations between people who share a protected characteristic and people who do not share it

Protected characteristics comprise: age, disability, sex, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation.

The vast majority of the proposals in the consultation either remove discrimination, improve pension fairness or extend choices available to members. If there is any negative impact on members with protected characteristics, this would need to be balanced against the positive impact of the changes being proposed.

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.

In question 51, the government asked respondents if there are any particular groups with protected characteristics who would either benefit or be disadvantaged by any of the proposals in the consultation, and if yes, to provide relevant data or evidence.

Summary of responses

23% of respondents answered yes, whilst 49% no and 27% were unsure. The 23% of respondents who considered that there would be PSED impacts from the proposals named the following groups as potentially advantaged or disadvantaged: parents, single persons without children, cohabiting partners of pre-2008 retirees, cohabiting couples, women, members who make decisions informed by their religious views, members of the LGBT+ community, members with disabilities, pension

administrators, general public, single members with no dependants or partners.

Our response

The government maintains its initial view that most of the proposals are to the benefit of LGPS members. Whilst a number of respondents made claims that have been noted, none were accompanied by quantitative data or evidence supporting their assessment. The government believes that the consultation proposals will help improve access and fairness across the LGPS.