

Access and Protections – LGPS Consultation

Covers 4 areas;

- 1. Normal Minimum Pension Age**
- 2. Mayors and Councillors**
- 3. Academies and applications for directions (removing Secretary of State approval)**
- 4. New Fair Deal**

Section One - Normal Minimum Pension Age (NMPA) – It is proposed to increase the minimum retirement age from 55 to 57 in April 2028 for people without a protected pension age. Members who were in the LGPS immediately before 4 November 2021 retain the protected pension age.

Q1 – Do you agree with keeping the NMPA at below 57 for members with a protected pension age?

A1 – Yes

Q2 – Do you agree with increasing the NMPA to 57 for members without a protected pension age?

A2 – Yes, other than for those members who have transferred in benefits from elsewhere with a protected pension age of 55, that lose this protection on transfer.

Q3 – Do you have any views on the design of the regulations to incorporate this change?

A3 – No

Section Two – Access for councillors and mayors – It is proposed to allow access to the LGPS for councillors and mayors from April 2026

Q4 – Do you agree with the proposal to give mayors access to the scheme?

A4 – Yes, but from April 2027 to allow time for employers to manage the necessary budget change to reflect the increase in employer contributions.

Q5 – Do you agree with the proposal to give councillors access to the scheme?

A5 – Yes, but from April 2027 to allow time for employers to manage the necessary budget change to reflect the increase in employer contributions.

Q6 – Do you agree with the two principles of how the government plans to develop regulations?

- As far as possible, elected members should be treated the same as other members of the LGPS
- As far as possible, elected members should be treated in a way that is consistent with the LGPS in Scotland, Northern Ireland and pre 2014 England and Wales

A6 – Yes, but for simplicity of administration and systems, Officers recommend the Councillors scheme mirrors the current CARE scheme (since April 2014) available for non-councillors. Where Funds have made their own local policy decisions, these must also apply, (as an example; not accepting transfers in from other schemes except Club or interfunds).

Q7 – Do you have any specific comments on the draft regulations?

A7 – Yes, practically employers will need time to check/amend their payroll systems to ensure this group of scheme members (if they have opted not to join) are not brought back into the scheme via auto enrolment, and our proposed April 2027 implementation date for budget reasons as detailed in answers 4 and 5.

Section Three – Establishing criteria and removing the requirement for Secretary of State consent where criteria are met.

The criteria proposed is;

- There must be clear evidenced value for money in favour of consolidation
- There should be pre-existing relationship with the administering authority that the MAT wishes to join or consolidate with
- All administering authorities involved agree to the change
- Receiving administering authority must be able to administer the transfer effectively
- “Contribution rate shopping” should be limited – i.e. where an employer wants to transfer to another Fund, primarily based on where it can get the lowest rate.

Q8 – Do you agree with the proposal to establish the criteria above in legislation

A8 – Yes, but it must be made explicitly clear, employers can not transfer between Funds simply to reduce their employer contribution rate. Otherwise, there’s a risk that after each 3-year valuation cycle, employers will want to move Funds. Allowing “contribution rate shopping” would create a complex, timing consuming, administratively challenging and costly exercise.

Q9 – Do you have any views on how contribution rate shopping can be discouraged?

A9 – By making the Regulations explicit in not allowing contribution rate shopping.

However, if the Regulations were not made explicit, there should be nationally agreed rules on how Funds assess and calculate employer contribution rates for Academies. Some Funds assess rates by individual employer, other Funds assess the Academy rate as a single pooled rate.

Accepting each Fund will set its own valuation assumptions and rules, if there was more consistency and guidance this would go some way towards removing some contribution rate discrepancies between Funds.

Q10 – Are there any other criteria that should be included?

A10 – Yes. Officers feel there should be a geographical limit set from the Head Office of the Multi Academy Trust, designed to limit transfers to only neighbouring local Funds.

Officers feel there needs to be clear Government policy on how “value for money” is decided and this is not for Funds to interpret and decide. This is designed to provide consistency and reduce disputes.

Q11 – Do you have any comments or considerations relating to establishing the criteria in legislation?

A11 – No

Q12 – Do you agree to the removal of the requirement to seek Secretary of State consent for standard direction order applications?

A12 – Yes, for those simple cases where there is no contention among all parties and all criteria is achieved.

Q13 – What would be the most helpful information to include in guidance?

A13 – To not allow contribution shopping and guidelines on value for money.

Q14 – Do you have any other comments or consideration on the removal of the requirement to seek Secretary of State consent for standard order applications?

A14 – No

Proposal for applications where criteria are not met.

Q15 – Do you agree that non-standard applications will continue to require Secretary of State approval?

A15 – Yes, although the Fund will work sensibly to try and resolve any cases before this situation arose.

Q16 – What would be the most helpful information to include in the guidance in relation to nonstandard applications that will require Secretary of State approval?

A16- The Fund feels this is an area that will develop depending on cases as this progresses nationally. Therefore, this should remain under review and updated as required.

Q17 – Do you have any further comments regarding the proposal?

A17- No

Section Four - New Fair Deal – The proposal is to provide greater protection for eligible employees who are compulsorily transferred to service providers.

Q18 – Do you agree that the option to offer broadly comparable schemes should be removed, except in exceptional circumstances, to align with 2013 Fair Deal guidance?

A18 – Yes. Practically, this has been the case for many years already, so this now confirms what is already the process for most cases.

Q19 – Are you aware of any other broadly comparable schemes that are currently in operation and have members covered by the 2007 and/or 2012/2022 Directions?

A19 – No

Removal of admission body option for future local government outsourcings

Q20 – Do you agree with the proposals on deemed employer status and the removal of admission body option for service providers who deliver local government contracts?

A20 – Yes, the Fund feels this change will reduce the pension risk to the staff that transfer and improve administration. Under the current pass-through process, the pension risk sits with the outsourcing employer, and this will remain (as the Fair Deal - deemed employer) under the new proposed process.

Fair Deal employers

Q21 – Do you agree with the proposed definition of a Fair Deal employer?

A21 - Yes

Protected transferees

Q22 – Do you agree with the proposed definition of a protected transferee?

A22 – Yes

Q23 – Do you agree with the proposal to allow the Fair Deal employer to provide protected transferee status for all staff working on a contract outsourced by a Fair Deal employer, which would enable Fair Deal employers and relevant contractors to avoid creating a two-tier workforce on outsourced contracts?

A23 – The Fund does not think staff employed subsequently (i.e. after the original outsourcing) should be included. These staff may have never had any previous employment that provides entitlement to the LGPS employment, and it seems unusual to allow them to join in this scenario. However, if the Regulations were to allow this, the Fund feels this decision should ultimately fall with the Fair Deal employer (on a case-by-case basis), as they would be taking the pension risk if they decided to allow this.

Responsibilities for relevant contractors

Q24 – Do you agree with the overall approach on responsibilities for relevant contractors and Fair Deal employers? If you do not, with which proposals do you disagree?

A24 – The Fund feels the proposed changes are positive, and whilst there are items to work through for each case, the benefits outweigh the current process. The Fund agrees with the overall approach and responsibilities and suggest guidance is needed that Funds can share with any party entering an outsourcing, under this proposal.

Continuity of responsibilities across contractors

Q25 – Do you agree that Option 1 should be applied to how agreements between protected transferees and relevant contractors should be treated in the case of subsequent outsourcings? Please give the reasons for your answer.

A25 – The Fund prefers Option 1 as this simplifies pension arrangements for the staff. Relevant new contractors would need to consider pension arrangements when deciding to bid for the contacts, but this is just one consideration, amongst others.

Exceptional arrangements – continuation of broadly comparable schemes

Q26 – Do you agree with the approach to allow broadly comparable schemes to continue only in exceptional circumstances?

A26 – Yes

Q27 – Do you have any views on what the exceptional circumstances, where broadly comparable schemes may need to continue, could be?

A27 – No

Transitional arrangements – inward transfers from broadly comparable schemes?

Q28 – Do you agree with the proposed approach to inward transfers from broadly comparable schemes?

A28 – The Fund believes this will be a rare event, so the implications are minimal, and therefore feel the approach is reasonable.

Early re-negotiation of contracts

Q29 – Do you agree with the approach of including a mechanism in the draft regulations that allow for staff to become protected transferees where there is an early re-negotiation of a service contract using the new Fair Deal regulations?

A29 – The Fund believes this will be an exceptionally rare event but feel there should be a consistent approach taken where this happens, and it would be for the employers to consider the legal implications and costs this will incur, not the Pension Fund.

Optional expansion of New Fair Deal beyond originally outsourced workers

Q30 – Do you agree with the proposal that all staff (including those joining a contract after first outsourcing) would be eligible for protected transferee status, providing all relevant parties agree?

A30 – As in answer 23, The Fund does not think staff employed subsequently (i.e. after the original outsourcing) should be included. These staff may have never had any previous employment that provides entitlement to the LGPS employment, and it seems unusual to allow them to join in this scenario. However, if the Regulations were to allow this, the Fund feels this decision should ultimately fall with the Fair Deal employer (on a case-by-case basis), as they would be taking the pension risk if they decided to allow this.

Implementation of New Fair Deal proposals

Q31 – Do you agree with the proposal for the draft regulations to come into force on the date the relevant SI is laid, with a 6-month transitional period during which there is the possibility to decide to not apply the new provisions?

A31 – Yes

Q32 – If you are an individual who is currently outsourced from a local authority and part of a final salary scheme, do you agree with the proposed updating of the 2007 and 2022 Directions to deem the LGPS as broadly comparable to, or better, than final salary schemes

A32 – N/A

Q33 – Do you agree with the proposal to develop and publish statutory guidance and SAB guidance to support with the implementation of the updated Fair Deal proposals?

A33 – Yes

Q34 – Are there any additional topics that you would like to be covered?

A34 – No

Q35 – What impact do you think these proposals would have on members?

A35 – No negative impact on active scheme members. However, the Fund questions if there maybe future appeals from pensioners or preserved members who leave/retire and receive their benefits from broadly comparable schemes, if their benefits end up being less than if they had remained in the LGPS.

Q36 – Do you support the proposal to bring all eligible individuals back into the LGPS, including those in broadly comparable final salary schemes?

A36 – The Fund feels this should be an individual members decision, thereby putting the responsibility on the member to decide the best solution for them personally. If the decision is forced on a member, and the benefits end up being lower in the LGPS (accepting this is unlikely), this may cause a future IDRP appeal.

Q37 – On balance, do you agree with the proposal in this chapter?

A37 – On balance, yes.

Public Sector Equality Duty

Q38 – Do you consider that there are any particular groups with protected characteristics who would either benefit or be disadvantaged by any of the proposals?

A38 – No

Q39 – Do you agree to being contacted regarding your response if further engagement is needed?

A39 – Yes

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