

Local Government Pension Scheme England and Wales Scheme Advisory Board (SAB)

Local Government Pensions Team, Ministry of Housing, Communities and Local Government (MHCLG)

Response via email to Memberbenefitsconsultation@communities.gov.uk

18 December 2025

Scheme Advisory Board response to the Access and Protections consultation

This response is submitted on behalf of the Local Government Pension Scheme (LGPS) Advisory Board (England and Wales) which is a body set up under Section 7 of the Public Service Pensions Act 2013 and the LGPS Regulations 110-113.

The Board's purpose is to:

- Provide advice to the Secretary of State and to administering authorities on “the desirability of changes to the scheme” and “in relation to the effective and efficient administration and management” of the LGPS
- Provide a framework to encourage best practice, increase transparency and coordinate technical and standards issues across the sector

Membership of the Board includes equal number of voting members representing employers and employees. Non-voting members and advisors also support the Board. There are around 18,000 employers participating in the Scheme and therefore on the Board and its sub-committees there are representatives of some of the larger employer groups (further/higher education institutions and academy schools). Secretariat services are provided by the Local Government Association and separate Advisory Boards have been established for the LGPS in Scotland and in Northern Ireland.

The Board have also agreed to endorse much of the response from the Local Government Pensions Committee (LGPC) submitted by Lorraine Bennett. In particular, the Board would endorse the technical accuracy of their analysis of the impact of the proposals and how they might best be delivered. The main difference between the Board's response and that of the LGPC is on the introduction of the Normal Minimum Pension Age and the need for protections for existing scheme members. That difference derives largely from the different composition of the Board, and the advocacy of the member representatives on it.

Yours sincerely,

Cllr Roger Phillips
Chair of the Board

Scheme Advisory Board Secretariat

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Scheme Advisory Board response to the Local Government Pension Scheme (England and Wales): Access and Protections

Please note: this response does not attempt to cover all areas of the consultation as a detailed response has been prepared by the LGPC, which Board supports except for when explicitly mentioned below. The Board is also aware that the LGA Safe and Stronger Communities (SSC) has also submitted a response on the proposals for admitting Councillors and Mayors in the scheme.

Normal Minimum Pension Age (NMPA)

Question 1: Do you agree with keeping the NMPA at below 57 for members with a PPA?

The Board supports the introduction of Protected Pension Age (PPA) in the LGPS regulations to allow access to authorised benefits before NMPA. In doing so it recognises that there will be significant additional work required of administrators to track where members have a PPA and pay the benefits accordingly. However, the Board feels that it is important to keep the flexibility to take benefits earlier than 57 for members in scope of PPA. This is a benefit that members highly value, and in recent years due to the ongoing cost of living crisis, members have increasingly needed to access their LGPS benefits early.

This view is evidenced by data from the LGPS funds account return (SF3). The number of members requesting their deferred benefits early was 60,987 (an increase of 11.7% on 2023/24) and an increase of over 20% since 2020/21. The table from the return illustrates this trend:

Table 6: Type of retirements from the Local Government Pension Scheme, 2020-21 to 2024-25, England and Wales [Note 1]

Year	2020 to 2021	2021 to 2022	2022 to 2023	2023 to 2024	2024 to 2025
Redundancy	5,989	5,423	3,053	3,832	5,793
Tier 1, 2 & 3 ill health retirement awards under LGPS	2,739	2,987	3,567	3,390	3,502
Early payment of deferred benefits	49,348	54,139	53,237	54,584	60,987
Normal retirements	24,860	32,168	33,723	37,699	40,396
Total retirements	82,936	94,717	93,580	99,505	110,678

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As early payment of benefits is subject to actuarial reduction, there is no extra liability cost associated with putting the PPA in place. However, the Board did note that there will be the ongoing cost to scheme employers given the current link to redundancy benefits. The scale of local government reorganisation means that in the coming years there are likely to be significantly more redundancies in the local government workforce than the historical average and the option for eligible scheme members to take their benefits in these circumstances remains in place and including reviewing the links with redundancy payments.

Question 2: Do you agree with increasing the NMPA to 57 for members without a PPA?

Yes, we support the proposal that the earliest age for accessing LGPS benefits should be set at age 57, in alignment with the normal minimum pension age as defined in the Finance Act 2004. We do not believe it should be set at a later age.

Question 3: Do you have any views on the design of the regulations to incorporate this change?

The Government have not published draft regulations with this proposal therefore we have not commented on how the implementation of NMPA will be enacted into the LGPS regulations.

Access for councillors and mayors

Question 4: Do you agree with the proposal to give mayors access to the scheme?

Yes, the Board agrees with this proposal.

Question 5: Do you agree with the proposal to give councillors access to the scheme?

The Board supports this proposal and notes that under Local Government Reorganisation (LGA) councillors are likely to be responsible for larger geographical areas and budgets. The proposal also aligns the current access to the LGPS in Wales and Scotland.

The consultation refers to the LGA 2022 census of councillors, which showed that 59% of councillors were male, 92% were white and their average age was 59.5. The aim of the proposal is to help improve the representativeness of elected members, especially in terms of age. This is in relation to electors generally, rather than the local government workforce (which we know is very different in composition from councillors). There is also a stated aim to have greater consistency between the different nations in the UK.

Question 6: Do you agree with the two principles of how the government plans to develop regulations?

Yes, the Board agrees with the two principles set out in the consultation.

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Question 7: Do you have any specific comments on the draft regulations?

The Board notes that the timescale for the regulations coming into force from 1 April 2026 is ambitious. All stakeholders such as administrators, software providers and local government employers will need ample notice to ensure access to the LGPS for councillors/mayors has appropriate lead-in time.

As raised in previous correspondence, the Board requests that MHCLG provides justification of why New Burdens principles should not apply. The Board would make a distinction between changes which have an impact on the cost of benefits due under the scheme rules, which are paid for from employer and employee contributions, and those changes which are Government choices around the administration or governance of the Scheme that have a direct impact on the “operating costs” of funds. This ought to be accompanied by an assessment of cost since these will have to be met from employer contributions (which in turn are overwhelmingly drawn from Council resources as additional running cost).

Academy transfers

Question 8: Do you agree with the proposal to establish the criteria above in legislation?

The Board agrees that a clear criterion is needed for applications to be assessed against when applying to the Secretary of State (SoS) for a direction to designate a different administering authority at their new administering authority.

In addition to the criteria outlined in the consultation, the Board recommends that member experience and outcome is identified and assessed. Also, that scheme member representatives should be engaged in the process to ensure the change in administering authority does not negatively impact or change current service delivery. Our view is that this proposed criterion is broader than the existing criterion that the “receiving administering authority must be able to administer the transfer effectively”, although it would be acceptable to broaden the existing criterion out to explicitly encompass this point.

The Board agreed that Multi Academy Trusts have good reasons for wanting to simplify their administration obligations by rationalising their interests across different LGPS funds with the aim of simplifying the processes and minimising administrative burden of dealing with multiple funds. However, the Board is aware that changing administering authorities is an extremely complex and time-consuming process which requires proper consideration of the risks and benefits from all parties. Any applications made to the SoS should be based on improving service delivery, for the employer and the scheme member, and that “contribution rate shopping” should not be allowed. All costs associated with an application should be met by the employer applying for the application and there should be regulations to enforce this by the administering authorities.

The Board would like to see more consistency across the sector in terms of how data is requested from scheme employers by funds and suggest this is reviewed as part of the production of Pension Administration Strategy guidance.

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Question 9: Do you have any views on how contribution rate shopping can be discouraged?

Based on publicly available [statistics](#) on the composition of multi-academy trusts, there are 67 very large MATs (those covering more than twenty schools) while the average MAT now has about 13 schools. Future size of MATs driven by ministerial preferences and it is possible that in the future MATs could become much larger.

It is also worth noting that at the same time as issuing the consultation, MHCLG have granted the direction requested by Oasis in 2021. Oasis applied for a direction to transfer all its LGPS interests (and those of its sub-contractors) into a single fund. That would involve transferring into the receiving fund the assets and liabilities from the 16 different exporting funds. Oasis applied for the receiving fund to be London Pensions Fund Authority (LPFA), despite it not having any active members in that fund. That decision seems to have been made in support of contribution rate shopping and not in line with the proposed criteria for consideration of future applications. While this was just one case, it does set a precedent and the Board noted that it is possible for employers to start to move quickly where there are perceived commercial advantages and the [Wolverhampton taxi licensing example](#) was quoted in this regard.

Question 10: Are there any other criteria that should be included?

The Board would suggest that the MHCLG policy on consideration of directions should require a consideration of the member view and likely impact on them of such a transfer (both in relation to the transfer under discussion and the future service provided by the receiving administering authority).

And although covered in point (d) of the criteria covering the 'receiving' administering authority. The criteria should clearly ask for the ability and management of risks from both parties involved in any transfer, The other sets out a process for doing this by agreement "between the parties" without the need to seek a direction from the Secretary of State. This is something that we feel requires further thought and has significant risks of miscommunication and lack of legal clarity associated with it.

The consultation focuses on benefits of consolidation for employers and mentions the current arrangement being inefficient and causing unnecessary administrative costs for employers, specifically 'potential administrative savings through a reduction in duplication of work and efficiency in approach'. Whilst consolidation can bring benefits, the cost, resources and risk associated with transfer of administrative authority should be proportionate, and consideration instead given to how the employer (and relevant administrative authorities) have informally discussed whether efficiencies/consistency can be made to current processes before an application is made.

Question 11: Do you have any other comments or considerations relating to establishing the criteria in legislation?

The Board notes that under the 2013 LGPS Regulations, academy schools participate in the fund in which the school is geographically located rather than where the scheme employer (the MAT) is based. It isn't clear if this was intentional

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but the Board supports that there should be some geographical connection between the Multi Academy Trust and the proposed new AA.

In principle the Board is supportive of establishing a criterion to assess these applications. However, there is much further detail to work through for these applications and the criteria as currently set out focuses on the 'numbers and applications should do more than focus on contribution rate and administration savings. The risk of undertaking such transfers should not be underestimated or applications will be made which are not properly considered. For the fund with the employers leaving there is impact of reduced cash flow and employer number to assess.

The Board suggests there could be a minimum period introduced for applications to avoid multiple requests over a relatively short period of time.

Within the proposed criteria there is also a lack of detail on how the current member experience and service is to be considered in an application and how this may change (and be remediated) in any transfer. The Board also notes that there are significant numbers of LGPS members employed by schools who have part-time roles at different local schools which, if they were in different funds (by virtue of transfers within different MATs), then potentially those members will find their service split across different pension funds, receiving different annual benefit statements and potentially finding it difficult to properly understand the pensions they are accruing.

Question 12: Do you agree to the removal of the requirement to seek Secretary of State consent for standard direction order applications?

Whilst the Board agrees with the proposal of a clear criteria to assist applicants, the Board suggests an assessment and consent should still be sought from SoS considering the potential risk involved in a transfer.

Question 13: What would be the most helpful information to include in guidance?

The Board would like to see a checklist for applications to have considered and addressed the following issues (for example):

- How value for money and member experience has been assessed
- Steps that the employer and administering authority have taken to improve efficiencies
- How the risks involved in a transfer will be addressed
- How contractors will be treated and whether they are involved in the decision-making process
- How the application has been considered and made by all parties
- An implementation plan for transferring member records and data
- Expected timescales for the transfer
- Consultation process and timescales
- Informal dispute resolution process between funds in relation to valuation of liabilities/assets transferring

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

As raised above, whilst the Board agrees with the proposal of a clear criteria to assist applicants, the Board suggests an assessment and consent should still be sought from SoS considering the potential risk involved in a transfer and the need for legal clarity.

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

No.

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?

See response to question 14.

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

None.

New Fair Deal

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

Yes. Although very few BC schemes exist, this is welcome to ensure continued access to the LGPS for outsourced employees.

Q19. Are you aware of any other broadly comparable schemes that are currently in operation and have active members covered by the 2007 and/or 2012/2022 Directions? If so, please provide details of these.

The Board is not aware of any.

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?

Yes, however the scheme will still require pension responsibilities to be properly addressed in contract documents. The new arrangements help by simplifying the relationship between the New Fair Deal employer and the contractor but there will still be a role for clear guidance, communication and early engagement in the outsourcing exercise.

It is welcome that admission agreements will no longer be required, scheme members will not have the uncertainty of working for an employer that has been required to enter into an admission agreement with the administering authority but has not managed to do so by the time of the staff transfer.

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There have been calls for admission agreements to be allowed to operate in certain circumstances. For example, where a very large contract is outsourced, and pension risk represents a small proportion of the total cost of the contract. The lengths of such contracts could be up to 20 years. The Government may wish to consider an 'exceptional circumstances' clause in the regulations that would allow admitted body status to continue where there are a large number of protected transferees and the provider is awarded a lengthy contract. To be effective and not re-open the door to the uncertainty of delayed agreements, this option should only be available where such agreements have been signed up to before the point of transfer, after which the statutory default would apply.

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

Yes.

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

Yes. And we welcome the commitment at paragraph 90 of the consultation document to provide further guidance on the interpretation of "protected transferee". In particular we think guidance would be useful in the following areas:

- what 'wholly or mainly' means in this context
- best practice to ensure workers do not lose protected transferee status as a result of short-term changes in their role
- best practice in the provision of information to workers about the consequences of a change in their role where this would mean they would no longer be a protected transferee.

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?

Yes. The Board also noted the Labour Party manifesto commitment to introduce a revised and strengthened two-tier code in relation to new hires on contracts which have been outsourced from the public sector. As well as improving fairness, this would also benefit the scheme by increasing the active member base and hence cash-flow position of the funds. It would also help to address the ongoing problem of many private sector workers being "under-pensioned".

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?

The Board wholly supports the concerns raised in the response provided by the LGPC, specifically the complexity of administering the proposals. The Board understands that many funds have implemented pass-through agreements which could be a more suitable arrangement to mirror. Splitting some responsibilities or giving the option for different approaches if both parties agree (e.g. applying the member contribution rate) could cause confusion.

In terms of responsibilities, there are many mandatory and non-mandatory [employer discretions](#) under the LGPS regulations and which would need to be considered in addition to the table provided at paragraph 92 in the consultation.

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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.

On balance, the Board agrees with the proposals around continuity of responsibilities between contractors (paragraphs 102-105 of the consultation document). In doing so we observe that such arrangements are not likely to be common. The approach is consistent with the underlying policy intent of TUPE, that the new contractor “slips into the shoes” of the old contractor and cannot use the transfer as a reason to revisit contractual agreements made with individuals or collectively. However, for this to be reasonable to new contractors they would need to be given the relevant information in good time so they can price these commitments into their bid.

Of course, where the previous contractor had a unilateral right to withdraw from these agreements then we would expect that right to transfer to the new contractor as well. In those circumstances, the new contractor would still be able to terminate any inherited agreements on the same basis that the existing contractor could.

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

Yes. Employers will no longer be able to offer “broadly comparable” (BC) schemes to the LGPS, they will have to offer continued access to LGPS. Although very few BC schemes exist, this is welcome to ensure continued access to the LGPS for outsourced staff.

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

No.

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

Yes.

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

Yes, but only if agreed by all parties.

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?

Yes, closely related to these proposals is the Labour Party manifesto commitment to put in place a revised and strengthened Two Tier Code, which would protect not just those workers involved in the initial transfer out of the public sector, but also those subsequently hired to work on that contract. The Employment Rights Bill contains powers to amend the Procurement Act to bring in this Code, but it is still unclear how

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or when Government intends to bring in the new Two-Tier Code. The Board supports the desire not to have two-tiers of staff working on outsourced contracts and to keep an active membership base.

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?

Yes, given the legislation is 38 pages, this is a complex ask for administering authorities.

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? Please give the reasons for your answer.

N/A

Q33. Do you agree with the proposal to develop and publish statutory guidance and Scheme Advisory Board guidance to support with the implementation of the updated Fair Deal proposals?

There does need to be more guidance and support in relation to the relationship between the outsourcing employer and contractor, covering all the required pension responsibilities. The consultation mentions that MHCLG proposes to work with and commission the Board to publish guidance on this, but this will need cross-industry work with all relevant employer representatives to ensure the legal responsibilities of the contractor are embedded into future outsourcing exercises.

The proposals will also require communication and education to employers on the new process and will require funds to update their existing new admission processes and documentation, which will be a strain on resources in an already busy schedule of scheme-level changes.

We would also expect any future guidance on the proposed mandatory pension administration strategy to reflect and be consistent with the arrangements made in relation to Fair Deal.

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

There are several topics that need to be addressed in guidance. The Board notes that the current list suggests a mix of statutory guidance and additional guidance commissioned from the Scheme Advisory Board. The Board's expectation is that all items should be covered by statutory guidance, rather than some items being treated as 'additional'. For example, the procurement process is a critical element of the proposed new approach and should be included in statutory guidance from day one. Additional topics could also cover employer discretions, decisions, communications, data sharing and monitoring of responsibilities should be covered.

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

These changes should have a positive impact on members as delays in putting admission agreements in place will no longer impact members. It removes the sometimes-uncertain position when a transfer has taken place, but an admission agreement has not been signed. However, the relationship between the Fair Deal/deemed employer and relevant contractor is key and practicalities of managing data, contributions, decisions (e.g. employee contribution rate) and queries will need appropriate guidance.

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

Yes.

Q37. On balance, do you agree with the proposals in this chapter?

Yes, putting provisions into the 2013 regulations directly, rather than relying on Best Value directions to local authorities (made under different powers) and other arrangements for different classes of employer seems sensible.

Overall, the Board supports the consultation aim to bring pension protections on staff transfers in local government in line with the government's Fair Deal guidance of 2013. It is worth noting that earlier consultations (in 2016 and 2019) contained proposals on how best to achieve that in the LGPS have not been put into effect by Government and therefore the Board requests that the sector responses to the implementation of these proposals are considered in a timely manner.

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? If so, please provide relevant data or evidence.

The Board believes that MHCLG needs to find a means of assessing the impact of LGPS benefit changes on members with different protected characteristics. It is plausible that the differential outcomes seen between men and women might also be apparent between other protected groups, and this is something that MHCLG, as scheme authority, really ought to have data on. The Board strongly believes that proposals to change scheme benefits or scheme rules should be accompanied by a proper analysis of the impact of that change on men and women. That would be:

- a) To demonstrate that there is not likely to be any adverse impact on women of the change (a "negative check"); and
- b) To consider whether there is an opportunity to implement the change in a way that reduces the evidenced differences in outcomes between men and women (a "positive" check).

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There is significant evidence (see for example, the report [Coming Clean and the report into inequalities in the health and social care workforce](#) from the Equality and Human Rights Commission) that patterns of outsourcing, with the attendant risks of losing access to a good pension scheme, have disproportionately affected lower paid staff, women and staff from minority ethnic backgrounds. The Board welcomes that successful implementation of these New Fair Deal proposals may therefore have a beneficial impact on these groups.

The Board also feels that there is a potential equality impact if the Board's suggestion to consider scheme member experience as a consideration in academy transfer applications. This is because the workforce affected is predominantly female, part-time and may disproportionately have other protected characteristics.

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

Yes.