

Scheme Advisory Board

Hybrid Meeting – 24 November 2025

Item 5 Paper C – Access and Protections Response

Background

1. The Government launched a consultation on 15 October 2025 entitled [Local Government Pension Scheme in England and Wales: Scheme improvements \(access and protections\)](#). The consultation is due to close on 22 December 2025 and contains proposals to amend Scheme rules in four main areas. A short summary of the main proposals and the Secretariat's observations on impact are below:
 - Normal Minimum Pension Age
 - Access for councillors and mayors
 - Academies
 - New Fair Deal

Normal Minimum Pension Age

2. From 6 April 2028, the Normal Minimum Pension Age (NMPA) is increasing from 55 to 57. In line with changes¹ brought in by the [Finance Act 2022](#), the former pension age for those with scheme rights existing before 4 November 2021 can be protected. MHCLG is proposing to put in place protections for those who have LGPS membership before 4 November 2021 (and preserve earlier NMPA for those who have protections from earlier changes to NMPA). Protections will not be offered to those who joined the LGPS after 3 November 2021 but also qualify for a protected pension age on benefits transferred in from another scheme.
3. The CMBDA Committee has discussed the proposed change to NMPA protections on numerous occasions in the past without reaching a settled position. We anticipate that there would be significant additional work required of administrators to track where members have a protected NMPA and pay the benefits accordingly. At the same time, the flexibility to take benefits earlier than 57 is likely to be one that members highly value. That is both in terms of active members who have already started retirement planning, but also in terms of deferred members who in recent years have increasingly needed to access their LGPS benefits early.
4. The Government have not published draft regulations with this proposal therefore it is difficult to fully comment on how the implementation of NMPA will be enacted into the LGPS regulations.

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Access for councillors and mayors

5. In 2003, a special section of LGPS was established which enabled councillors, subject to permission being granted by the local authority's remuneration panel, to join the scheme and receive both retirement and death benefits for a flat contribution rate of 6% of their basic and special responsibility allowances.
6. In 2014 the Government decided to exclude new councillors and other elected local office holders in England from any membership of LGPS. The change came into effect on 1 April 2014 although already active members were allowed to stay in the scheme until the end of their term of office. In Wales, Scotland and Northern Ireland elected members have been allowed to remain in the LGPS.
7. The current proposal is to make elected councillors and mayors eligible to rejoin the LGPS without requiring authorisation from their remuneration panel. Some features of the main scheme would not be available for elected members (e.g. around auto-enrolment, redundancy and the employer flexibility to award them additional pension).
8. 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.

Academy transfers

9. Under the 2013 LGPS Regulations, academy schools participate in the fund in which the school is geographically located. Multi-academy trusts can run schools across different LGPS fund areas, and the regulations also allow them to apply for a direction from the Secretary of State (under Schedule 3 part 2, paragraphs 3 and 4 of the LGPS Regulations 2013) to substitute a different administering authority as the appropriate authority.
10. The consultation contains two proposals, both relating to the process for changing the fund in which academy schools participate. The first is to set out some considerations that MHCLG believes should determine when such a direction should be granted. These seem broadly sensible however do not specifically cover the requirement to consider the member view and impact of such a transfer. 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

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feel requires further thought and has significant risks of miscommunication and lack of legal clarity associated with it.

11. 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.

New Fair Deal

12. The consultation proposals in this area aim to bring pension protections on staff transfers in local government in line with the government's Fair Deal guidance of 2013. Earlier consultations (in 2016 and 2019) contained proposals on how to achieve that in the LGPS but were never put into effect. This consultation sets out updated policy proposals that build on those earlier proposals and which the Secretariat and LGPC colleagues have played a significant part in shaping.
13. Some of the key changes to existing arrangements are:
 - 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.
 - 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.
 - The regulations will bring in the "deemed employer" model so that newly defined "Fair Deal employers" (largely scheduled bodies) will continue to be the deemed employer for the purposes of the regulations in relation to where their staff are contracted out (or further sub-contracted)
 - As 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.
14. 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 the Bill has not

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yet completed its passage through Parliament. It is also unclear what the Government intends the Two-Tier Code to contain in detail.

15. There are some specific points which the Board may wish to make in its response regarding the New Fair Deal proposals.
- The Board welcomes the increased and renewed focus on the Scheme.
 - That the removal of the requirement of an admission agreement to tackle the frequent cases of new admissions where agreements are not in place for the start of the contract and scheme members left in 'limbo' is supported. However, the consultation does increase the emphasis on the service contract 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.
 - Whilst generally welcome, the proposals will 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.
 - The day-to-day process of managing the relationship between the Fair Deal and the deemed employer needs to be clear and not more complex than the current arrangement. Could this be built into the future changes to the Pension Administration Strategy? i.e. the proposal that if a contribution payment is overdue by a month, the administering authority can require the Fair Deal employer to pay it and the Fair Deal employer would then be able to recover it as a debt from the relevant contractor, including any applicable interest.

SAB response

16. The Secretariat recommend that the Board provides a response to this consultation, raising the observations made in this report and any further points following the discussion within the Board meeting on the 24 November 2025. The Secretariat will aim to publish a response in advance of the closing date on the Board's website for funds and other stakeholders to view.
17. We also believe that the Board should flag again the need 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

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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).

LGPC response

18. Local Government Pension Committee (LGPC), which represents local authority interests in dealing with Government and others on local government pension issues, is also preparing a detailed response to these proposals. As in previous consultations, we will aim to align our response with that, apart from where, due to the different composition of the Board, it believes that its interests diverge from those of the LGPC membership.
