



Local Government Pension Scheme in England and Wales: Access and fairness

Policy consultation

5 August 2025

Introduction

Please find below the West Midlands Pension Fund response to the MHCLG open consultation entitled Local Government Pension Scheme in England and Wales: Access and Fairness published on 15 May 2025. The City of Wolverhampton Council is the Administering Authority of the West Midlands Pension Fund ("the Fund"), and this response is submitted from the perspective of the Fund.

The West Midlands Pension Fund is a fund within the Local Government Pension Scheme (LGPS) and one of the UK's largest pension funds. The Fund administers the pension benefits of over 350,000 members, with over 850 participating scheme employers and manages invested assets in excess of £21bn to meet benefit payments to members over the long term.

General Comments

The Fund welcomes changes by the Ministry of Housing, Communities and Local Government (MHCLG), which address historic discrimination in the calculation of survivor benefits within the LGPS, rectify a longstanding loophole in the forfeiture regulations, and draw necessary attention to the gender pensions gap in a scheme with predominantly female membership. Whilst we are supportive of these changes the Fund notes the significant administrative burden the retrospective aspects of the proposals will place on LGPS Funds.

In summary, some of the key themes within the Fund's response to this consultation are:

- **Implementation timescale:**
 - o MHCLG has yet to provide the effective date for implementing the revised regulations or timelines for recalculating affected members' benefits, although the government has hinted that some proposals could be in place by the end of 2025. Implementation faces practical challenges, and all stakeholders should note that reviewing and amending benefits retrospectively will be a challenging and a lengthy exercise. Implementing multiple changes concurrently would impose excessive demands on administrators – who's resources are already stretched to capacity - especially when viewed in conjunction with other major administrative initiatives currently underway, such as the McCloud remedy and integration with pension dashboards.

- The government has suggested it would be open to a staggered approach to the implementation of the proposals, in particular where the amendments may be complex. The Fund believes that changes providing positive member benefit outcomes should be prioritised and these include the proposals in relation to survivor benefits, however would ask that this is done in consideration of wider administration burdens at this time.
 - The Fund cannot recalculate benefits until MHCLG formalises and enacts the regulations and we urge the government to consider the administrative burden on LGPS funds and software suppliers when determining implementation timescales.
- **Administering authority resourcing:** Many of the proposals require retrospective action, particularly in relation to the equalisation of survivor benefits where there are substantial changes to survivor benefit rule requiring manual investigations and recalculations as far back as 2005. The Fund will need to allocate a significant level of resource in this area. We would ask that this is considered by MHCLG when determining the timetable for when they expect the work to be completed and note the potential impact upon business as usual activity.
- **System changes:** Pension administration software must be updated to comply with new regulations, affecting calculations, workflows and letters. Software suppliers will need to have sight of the final regulations and sufficient lead time for implementation and testing. It should be noted that suppliers are already under strain as they develop their systems for McCloud and Pensions Dashboards and it would be useful for wider communication to be issued to Funds on the engagement activity being undertaken with suppliers about these changes.
- **Cost:** The government does not propose to cover any additional cost generated by the proposals in this consultation. The government's view is that, unless otherwise specified, the costs of implementing these proposals are costs of administration of the scheme. Therefore, they would be chargeable to the LGPS pension funds and are not in scope of the New Burdens Doctrine. Completing retrospective equalisation of survivor benefits is likely to incur considerable costs for the Fund. Scheme employers may also see increase costs due to measures addressing the gender pensions gap.

Ref	Questions	WMPF Response
Survivor Benefits		
Q1	Do you agree with the government's proposed amendment of survivor benefits rules?	Yes – The Fund agrees with the proposed amendment of survivor benefit rules. The proposals address historic issues relating to discrimination on the grounds of gender and marital/partnership status (as highlighted in the Goodwin case), which have been expected for some time. The proposals will simplify the administration of the complex area of survivor benefits going forwards, whilst improving equality for members.
Q2	Do you have any comments on the intended approach to equalising survivor benefits?	<p>The Fund supports the proposed approach to equalising survivor benefits. Offering all survivors the entitlement due to the survivor of a same sex civil partner (or the benefit due to a widow in an opposite sex marriage when the former is not applicable) ensures the highest possible level of survivor benefit is paid and reflects the government's commitment to fairness and equality.</p> <p>The approach in the consultation ensures that the LGPS rules are updated to fix the unlawful discrimination found in the Goodwin case.</p> <p>In our opinion backdating entitlements based on the date the underlying relationship types were first recognised in UK law is fair.</p>
Q3	Do you have any comments on the administrative impact, particularly in identifying cases where calculations of past benefits would need to be revisited?	<p>Whilst we are fully supportive of the equalisation of survivor benefits proposals in this consultation, and the resulting simplification for administration of future survivor benefits the administrative impact will be significant and must not be underestimated.</p> <p>Administering authorities in the LGPS continue to deal with the 2023 McCloud regulations and subsequent Implementation Statutory Guidance. Funds are reliant on their software suppliers to implement the McCloud remedy into their respective administration systems in the form of data tables, validations, reports, calculations, letters and process changes. Many of these changes are yet to be delivered and this has added pressure on administrators, increasing their manual case load and therefore impacting member outcomes.</p> <p>In addition, administering authorities and their software suppliers have seen their resources stretched further by the development required to introduce pension dashboards.</p>

		<p>Given that the backdating in relation to survivor benefits requires administrators to revisit cases as far back as 2005, there will be difficulties identifying these cases and also managing deceased cases for example, where a person in receipt of a survivor benefit is deceased or person that would be in receipt of a benefit as result of changes . We would welcome statutory guidance on these areas to ensure a common and consistent approach across the LGPS. We expect that further difficulties will arise when a survivor cannot be traced and we would also welcome guidance or legal advice to fully understand our duty and the lengths we should go to when tracing a beneficiary.</p> <p>Due to the period of backdating, many of these cases will need to be reviewed manually given that the documentation will either be on fiche or in scanned image format. This will take a considerable amount of time and resource. It will be simpler where a survivor benefit is already in payment and that amount is being increased.</p> <p>Due to the potential scale of these changes, the implementation will have a financial impact for Funds, as more resources or outsourcing may be needed. It is also anticipated that overall scheme costs will also rise due to increased benefit payments.</p> <p>We urge the government to consider the impact the proposals will have on administering authorities, and their software suppliers, and ask that achievable timescales are considered to allow for the implementation of the McCloud remedy and pension dashboards. Setting realistic timescales allows the expectations of members to be met and managed accordingly.</p>
Q4	Do you have any further comments on the proposed changes?	<p>As referred to in our response to question 7, we are also aware of potential challenges to using this date, as this excludes pre-2008 leavers who cohabit, and this may be deemed as unfair. We understand that this has previously been reviewed as part of the Harvey v London Borough of Haringey in 2018. The Court found that non-retrospective adjustments were justified and that pension scheme reforms do not need to be applied retrospectively, even if newer schemes are more inclusive (so this potentially would extend to A&F changes). Furthermore the Court emphasised that retrospective application of benefits would undermine the financial and administrative integrity of the scheme, and reference was made to a costing undertaken by GAD estimated to be c£10bn in terms of impact on accrued liabilities across Public Sector, however, we are unsure how this was derived.</p>

Q5	Do you agree with the government's proposals to formalise the removal of the nomination requirement?	Yes – The Fund agrees with the proposals to remove the nomination requirement as it will align LGPS rules with the declaration made by the High Court in Elmes (2018)
Q6	Do you have any comments on the government's proposals to formalise the removal of the nomination requirement?	No
Q7	Do you have any comments on the proposed approach to backdating?	The Fund recognises the rationale for backdating to 01/04/2008, when cohabitants were first included in the LGPS. However we are also aware of potential challenges to using this date, as this excludes pre-2008 leavers who cohabit, and this may be deemed as unfair, which is further enhanced since survivor benefits would apply if they married after retirement. This creates a potential risk of challenge. We understand that this has previously been reviewed as part of the Harvey v London Borough of Haringey in 2018, however due to the time past the relevance of the outcome may need further consideration.
Q8	Do you agree with the proposed amendments to death grants?	Yes – the age 75 cap is no longer relevant given that members can retire at an NPA over 65 in the LGPS. Removing the limit and allowing death grants to be paid to those age over 75 ensures alignment with the overarching legislation and introduces fairness for members.
Q9	Do you have any comments on the government's proposals to remove the age 75 cut-off from the LGPS Regulations?	No, but see Q11 response
Q10	Do you have any comments on the proposed approach to backdating?	The Fund agrees with the need to backdate but questions whether the date used should be 6 April 2011 when HMT removed the age cut off from legislation.

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?	<p>We estimate that the number of cases affected would be around 200, which is relatively low given the size of this Fund. However, that still means 200 manual record investigations and then processing of benefits. There may also be difficulties identifying who should receive the death grant and this could potentially be contentious. We would welcome guidance and/or legal advice in this area to ensure a consistent approach is applied in the LGPS.</p> <p>We urge the government to consider the impact the proposals will have on administering authorities, and their software suppliers, and ask that achievable timescales are considered to allow for the implementation of the McCloud remedy and pension dashboards. Setting realistic timescales allows the expectations of members to be met and managed accordingly.</p>
Q12	Do you agree with the proposal to remove the two-year limit?	Yes – We agree with the proposal as it aligns with the Finance Act (No.2) 2015 and allows Funds to pay to beneficiaries (subject to tax at their marginal rate) and therefore reduces occurrences of the 45% SLSDBC
Q13	Do you have any comments on the government's proposal to remove the two-year limit?	We welcome this proposal as it provides clarity and consistency with overriding legislations and should ease administration in this area going forwards.
Gender Pension Gap		
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?	<p>The Fund recognises the gender pensions gap in the LGPS, in which 74% of members are female, and welcomes initiatives to further understand this area. We also support steps to reduce the gap in the LGPS.</p> <p>We agree that returning to the pre-2014 approach could help narrow the gap but note that automatic contribution deductions during unpaid leave may not necessarily be seen as a positive move by members who have already experienced pay reductions. The government may want to consider the alternative options that could be made available to members in this area.</p>
Q15	Do you agree the government should use the actual lost pay option when calculating contributions, or do you think APP should be the chosen option? Please explain the reasons for your view.	On balance we agree that lost pay should be used. This is because it is administratively easier to calculate. The difference between the two pay options would be largely immaterial for the periods in question.

Q16	Do you agree with the proposal to align the cost of buying back unpaid leave over 30 days with standard member contribution rates?	Yes – The Fund agrees with 60.a as being the option that best contributes to the reduction of the gender pensions gap and ensures fairness by removing references to gender and age in this area.
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?	No – the Fund believes a shorter time-limit of 3 months may be more pragmatic. This will ensure timely transactions and whilst retaining some flexibility for members to consider their options.
Q18	Do you agree with removing the three-year limit on employer contributions in Regulation 15(6)?	No – we do not see this as a frequent occurrence and will essentially mean that the period is indefinite until benefits are due. This could impact decision making for employers when deciding to agree to an employee's request for a career break. There will also be an increase in cost to the employer which must be accounted for.
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?	Yes – we agree with this proposal as it directly contributes to the narrowing of the gender pensions gap and drastically improves outcomes for women. We acknowledge that there will be an additional cost for employers as a result of the proposal.
Q20	Do you agree that gender pension gap reporting should be mandatory in the LGPS?	Yes – We support mandatory reporting in this area and hope that the outputs will further inform and shape policy to address the gender pensions gap. However, this being made mandatory for 2025 Actuarial Valuation would be unwelcome
Q21	Do you agree that the 2025 valuation (and associated fund annual reports) is preferable?	<p>Yes, we agree that the valuation (and annual report) is the best place to present this data. However, the proposal to include this data in the 2025 valuation is unrealistic. Clarity is required in a range of areas before meaningful reporting can be undertaken.</p> <p>GAD, the SAB and actuarial firms will be instrumental in ensuring the success of gender pension gap reporting in the LGPS and we are concerned that the short timescales may not allow for a thorough and well thought out approach. We would therefore suggest that the 2028 Actuarial Valuation as a more realistic timeframe and would enable guidance to be developed.</p> <p>The suggestion for inclusion of individual employer analysis within the Rates and Adjustment Certificate could prove confusing and distract from the purpose, which is to confirm the contributions payable by each employer (it will also increase the length of this certificate unnecessarily). The Fund believes it would be better recorded in its own section within the AV report.</p>

Q22	Do you agree with the threshold of 100 employees for defining which employers must report on their gender pension gap?	<p>We believe the threshold should apply to scheme members, not employees.</p> <p>If the threshold is set at 100 (active) members, 83% of our employers—representing 20% of total (active) membership—would be excluded. We do have concerns with this threshold, it could exclude employers at Fund level who are relatively large at national level i.e. contractors who participate in multiple funds and and it is inconsistent with gender pay gap reporting (set at 250 employees).</p>
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’?	No – The Fund is of the opinion that the definition wording is somewhat ambiguous, namely the term ‘typical working life’. To provide meaningful data the definition needs to be clear and agreed across the industry with no room for ambiguity.
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’?	Yes – this definition is clearer, although as noted above the definition needs to be agreed across the industry to ensure consistency in its use.
Opt Outs		
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?	Yes
Q26	Do you foresee any issues with administering authorities’ ability to gather data on opt-outs?	The proposal suggests that this task should not be onerous, however the Fund can foresee practical challenge to collecting this data from employers. Whilst they should arguably holding this information, as we have experienced on previous data collection exercises it is rarely as smooth as perceived in theory, with issues with obtaining the data either through non-submission or provision of incorrect data. Over time this is likely to become easier, nonetheless it’ll present a challenge initially. Including extensive employer engagement. Guidance is required to make clear the role of the employer and the administering authority in this process – see Q27.

Q27	When updating the annual report guidance to reflect opt-out data collection, what information would be most useful to include?	<p>We would like the annual report guidance to clearly define how the opt-out rate should be calculated, including the date at which the data should be provided, and which members should be included, noting that there are two types of opt outs (under/over 3 months).</p> <p>Guidance is also required on dealing with non-responders and data that is clearly incorrect. The Fund would likely caveat the data in the annual report to say that it is based on information provided by scheme employers.</p>
Q28	Do you agree with the proposal to collect additional data about those opting out of the scheme?	Yes, the data could inform policy decisions related to scheme rules, controls, and targeted engagement. However, there are questions regarding the data's usefulness if survey participation is low as results could be skewed by intermittent responses. It would also be useful to understand the timescales attached to this data collection exercise, for example, if there triggers which then prompt government action, if so, what is the threshold and how often will the data be reviewed?
Q29	Are you an employer, part of an administering authority or member of a pensions board?	The City of Wolverhampton Council is the Administering Authority of the West Midlands Pension Fund (the Fund). We are responding from the perspective of the Fund.
Q30	Do you have any comments on the collection of additional information?	Collecting opt-out information can reveal geographic and demographic trends which could guide policy. However, since the government form is optional, many members may choose to ignore it, leading to sporadic data that lacks meaningful insights.
Forfeiture		
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?	Yes – we agree this is just and brings the LGPS in line with other Public Service Pension Schemes.
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?	Yes – we agree this brings the LGPS in line with other Public Service Pension Schemes and affords employers more time and flexibility to make applications.

Q33	Do you agree that Regulation 92 of the 2013 Regulations should be revoked?	Yes – we agree regulation 92 of the 2013 regulations should be revoked.
Q34	Do you agree that in order to give full effect to the proposed amendments, equivalent modifications should apply to earlier schemes?	Yes – we agree, this ensures equality throughout the various sets of LGPS regulations.
Q35	Do you agree that there should be forfeiture guidance to assist employers in making applications?	Yes – this would be very useful for employers and would ensure consistency with the LGPS and aligns with other Public Service Pension Schemes.
McCloud Remedy		
Q36	Do you agree with the government's proposal for pension debits and credits?	Yes
Q37	Do you agree with the government's proposal to cover deaths on 30 September 2023?	Yes
Q38	Do you agree with the government's proposal to clarify if interest applies on Club transfers?	Yes
Q39	Do you agree with the government's proposal to include part 4 tax losses in the 2023 regulations?	Yes
Q40	Do you agree with the government's proposal for transfers from other public service schemes for members over 65 years old?	Yes – we welcome the updated guidance in this area
Other Regulation Changes		
	Retrospective directions	Further information on the intention for this proposal would be welcome, we recognise the confirmation of consultation on this matter, however it would be helpful to understand the circumstances under which this is envisaged.

	Combined County Authorities	We support the inclusion of new Combined Authorities as Scheme employers as under 127.
	Exiting employers	We support the changes proposed (130 to 132) to the Regs for Exiting Employers to enable employers access to a DDA where they have no remaining active members within a Fund even if they have actives elsewhere in the LGPS (with another fund)
	Additional Voluntary Payments (AVCs) and transfers	The changes for AVCs and transfers (135 to 137) are reasonable, to afford members more flexibility aligned to Freedom and Choice. However, further guidance for funds to administer and engagement for members to understand will be required.
Q41	Do you agree with the proposal to omit Regulation 50 and the equivalents to it (to the extent that they have been preserved) in the 1997 and 2008 Regulations?	Yes – this is consistent with the abolishment of the lifetime allowance
Q42	Do you agree with the proposal to withdraw the actuarial guidance linked to Regulation 50?	Yes – this is consistent with the abolishment of the lifetime allowance, as regulation 50 is being revoked the corresponding guidance is therefore redundant.
Q43	Do you agree with the proposal to amend the definition of BCE in the 2013 Regulations?	Yes – this provides consistency with overriding legislation
Q44	Do you agree with the proposed approach to PCELSs?	Yes
Q45	Do you agree with the proposed approach to issue updated actuarial guidance on the treatment of PCELSs?	Yes – the change in rules and guidance since the abolishment of the lifetime allowance has been particularly difficult to navigate. We welcome much needed updated actuarial guidance in this area.
Q46	Do you agree with the proposed amendments to the Regulations?	Yes – This reduces administrative pressure; however Funds should continue to make best endeavours to contact members and make payments as soon as possible after leaving to prevent losing contact with members.
Q47	Do you have any comments on the proposals in this chapter?	<p>The Fund is supportive of the changes in this area however we note following points;</p> <p><u>AVCs and transfers</u></p> <p>Administering authorities, including this Fund, have been applying the ‘Freedom and Choice’ rules since 6 April 2015. Whilst not technically in line with LGPS rules, we understand that overriding legislation prevails. As a result, we request that the changes are back dated to 6 April 2015.</p>

		<p><u>Five-year refund limit</u></p> <p>151d refers to a new requirement for administering authorities to ‘take reasonable steps’ to pay members before age 75. This term needs clarification to ensure understanding of obligations and compliance with the new requirement.</p> <p><u>Retained EU Law</u></p> <p>Proposals in this area may have unintended and complex consequences because of the proposal to backdate to 31 December 2020. Notably, this would affect decisions made by IRMPs after this date which may become invalid.</p>
Q48	Do you have any comments about the impact the combined proposals in this document will have on administration?	<p>The collective proposals presented in the consultation will exert a considerable and complex influence on LGPS administration, for not only Funds but also employers, especially over the short to medium term. Implementing multiple changes concurrently would impose excessive demands on administrators – who’s resources are already stretched to capacity - especially when viewed in conjunction with other major administrative initiatives currently underway, such as the McCloud remedy and integration with pension dashboards.</p> <p>We ask the government to give due consideration to the ongoing work in these areas when determining any implementation dates for the proposals set out in this consultation with the aim of ensuring administrators, employers, payroll providers and software companies can deliver the changes needed to deliver the outcomes members require.</p> <p>We would be in favour of a staggered approach to allow each area of the consultation to be implemented in full with ample lead in times.</p>

Q49	Are there any areas where you believe the proposals are significantly more complex and would benefit from a later implementation date?	<p>The proposals in this consultation include several components that would need more time to implement. These components relate to regulatory, administrative, or technological factors.</p> <p>We feel that changes providing positive member benefit outcomes should be prioritised and these include the proposals in relation to survivor benefits. Finalising the regulations and associated guidance in this area should take precedent over other areas, but we acknowledge that this area is vast and requires retrospective action which will be largely manual.</p> <p>Whilst Section 2 (Gender Pension Gap) and Section 3 (Opt-Outs) are not overly complex, we believe the reporting in these areas require further work to ensure the output is reliable and meaningful. Some of the proposals have an impact of employers and payroll providers and they will need time to implement the changes to their systems. We therefore think these sections would benefit from a later implementation date.</p> <p>Sections 4 (Forfeiture), 5 (McCloud Remedy) and 6 (Other regulation changes) would be easier to implement and would suit and earlier coming into force date.</p>
Q50	Do you have any comments on the proposed approach to cost?	<p>The government does not propose to cover any additional cost generated by the proposals in this consultation. The government's view is that, unless otherwise specified, the costs of implementing these proposals are costs of administration of the scheme. Therefore, they would be chargeable to the LGPS pension funds and are not in scope of the New Burdens Doctrine. Completing retrospective equalisation of survivor benefits is likely to incur considerable costs for the Fund. Scheme employers may also see increase costs due to measures addressing the gender pensions gap.</p>
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.	No, not that we are aware of.

Q52	Do you agree to being contacted regarding your response if further engagement is needed?	Yes
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