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Ministry of Housing, Communities & Local Government

Open consultation

Local Government Pension Scheme in England and Wales: Scheme improvements (access and protections)

Updated 13 October 2025

Applies to England and Wales

Contents

This publication is available at https://www.gov.uk/government/consultations/local-government-pension-scheme-in-england-and-wales-scheme-improvements-access-and-protections/local-government-pension-scheme-in-england-and-wales-scheme-improvements-access-and-protections

Ministerial foreword

Across England and Wales, millions of individuals working in local government and beyond have contributed to improving the places we live in and to building public trust. From delivering frontline services to shaping local decisions, those individuals play a vital role in the social and economic wellbeing of our communities.

The government knows that those individuals who serve our communities through giving their work lives to public service deserve a pension scheme that reflects their dedication and rewards their work. A good pension is not just about financial security, but also about fairness, equality, efficiency and access. The government cares about making the Local Government Pension Scheme (LGPS) work better for the people it serves.

For these reasons, the government is launching this consultation, 'Local Government Pension Scheme in England and Wales – Scheme Improvements (Access and Protections)', which represents the next phase in its efforts to improve access to and fairness in the scheme. It follows the launch earlier this year of the 'Local Government Pension Scheme in England and Wales: Access and fairness' consultation (https://www.gov.uk/government/consultations/local-government-pension-scheme-in-england-and-wales-access-and-fairness), which covered proposals to begin to address the gender pension gap, ensure fairness in survivor benefits and death grants, begin work to better understand opt-outs, and a number of other changes.

This consultation sets out proposals across 4 key policy areas. These are amending the normal minimum pension age to reflect legislative changes, simplifying the process for applications for directions, applying new Fair Deal protections to outsourced workers, and bringing pension fund access to mayors and councillors in England in line with Scotland, Wales and Northern Ireland.

Several of these proposals respond to a range of long-standing concerns raised by the sector, particularly in relation to Fair Deal, which has been an area of interest in the scheme since 2016. We have considered those previous calls for changes that have been sought over many years whilst preparing these current proposals.

This consultation is our opportunity to hear from you about the government's proposals to further improve and shape the LGPS in a way that works for those who serve our communities and the wider public sector. Together, we can draw on our experiences to strengthen the LGPS today and in the future. Your voices matter.

Alison McGovern MP, Minister of State for Local Government and Homelessness

About this consultation

Topic of the consultation

This is a consultation on the Local Government Pension Scheme for England and Wales. It covers a number of proposals relating to pension benefits in the scheme and access to the scheme.

Geographical scope

Unless otherwise specified, these proposals relate to England and Wales.

Impact assessment

The government will have regard to the potential impact of any proposal on the Public Sector Equality Duty, as well as any potential impacts on business, local authorities, and communities.

Basic information

Body/bodies responsible for the consultation

Ministry of Housing, Communities and Local Government

Duration

This consultation will last for 10 weeks, opening at 3:00pm on 13 October 2025 and closing at 11:59pm on 22 December 2025.

Enquiries

For any enquiries about this consultation please contact the Local Government Pension Scheme team at memberbenefitsconsultation@communities.gov.uk.

How to respond

All members of the public are invited to respond, although the government recognises that the consultation is mostly relevant to members of the LGPS, employers with members in the scheme, and those involved in the running of the scheme, such as administering authorities.

The government strongly encourages responses via the online survey (https://consult.communities.gov.uk/local-government-pensions/local-government-pensions-scheme-in-england-and-wa/). Using the online survey greatly assists analysis of the responses, enabling more efficient and effective consideration of the issues raised for each question.

If you are providing a response, please refer to the privacy notice. If answering any questions using a free text box, please do not include any sensitive personal information in your answer. Please only respond to this consultation if you are over 18.

If you are unable to respond via the online survey, printed proformas can be requested from and returned to:

> Consultation on LGPS Scheme Improvements – Scheme Improvements (Access and Protections)
> FAO Local Government Pensions Team
> Ministry of Housing, Communities and Local Government
> Local Government Finance Directorate
> 2nd Floor, Fry Building
> 2 Marsham Street
> London
> SW1P 4DF

Introduction

1. This consultation covers 4 areas relating to the Local Government Pension Scheme in England and Wales ('the LGPS'). It follows on from the Local Government Pension Scheme in England and Wales: Access and Fairness consultation (https://www.gov.uk/government/consultations/local-government-pension-scheme-in-england-and-wales-access-and-fairness) launched by government earlier this year.

2. Subject to consideration of responses to the consultation, the government intends to proceed with statutory instruments to implement changes to the LGPS Regulations. Draft regulations for two of the proposals – LGPS access for mayors and councillors and New Fair Deal – have been published alongside this consultation. Draft regulations for the other two proposals – Normal Minimum Pension Age and applications for directions – will be published for consultation later in the year, and in this consultation we invite views on the principles behind our proposals.

3. The government welcomes comments on the legal drafting and will continue to work with the Scheme Advisory Board and others before laying a statutory instrument.

4. In summary, the policy areas in this consultation are:

a) Normal Minimum Pension Age – proposals to amend the Normal Minimum Pension Age to age 57, following the Finance Act 2022, and to ensure that members with a Protected Pension Age can still take pension benefits at that age except for members that have transferred benefits into the LGPS

b) Mayors and councillors – proposals to extend access to the scheme for councillors and mayors in England

c) Academies and applications for directions – proposals to put criteria for applications for directions into legislation, and to remove SoS consent where all criteria are met

d) New Fair Deal – proposals to implement Fair Deal protections in the LGPS, aligning across government in ensuring continued access to the LGPS for outsourced workers.

About you

Please tell us a bit more about you:

What is your name?

What is your email address or telephone number?

Type of respondent (choose one)

- Administering authority
- LGPS employer
- LGPS member
- Local Government Pension Scheme Advisory Board
- Local Government Association
- Government department
- Union
- Software/service provider
- Other (please specify)

What is the first part of your postcode?

Are you responding to this consultation as an individual or submitting a collective response from a group?

- Individual
- Collective response as part of a group

(If responding a collective response) What is the name of the group or organisation you are submitting a response for?

(If submitting a collective response) Please provide a summary of the people or organisations you represent and who else you have consulted to reach your responding conclusions.

Glossary

Finance Act – The Finance Act 2022

LGPS – The Local Government Pension Scheme in England and Wales

LGPS NI – The Local Government Pension Scheme in Northern Ireland, as defined in legislation

LGPS Scotland – The Local Government Pension Scheme in Scotland, as defined in legislation

LGPS Regulations – The regulations in law that define the LGPS in England and Wales.

2013 Regulations – The Local Government Pension Scheme Regulations 2013 (S.I. 2013/2356)

1. Normal Minimum Pension Age

Background

5. The Normal Minimum Pension Age (NMPA) is the minimum age at which most people can access their pensions unless they are retiring due to ill-health. Registered pension schemes – those registered with HMRC after 2006, including the LGPS – should not pay any benefits until members reach NMPA, except in cases of ill health.

6. Parliament has legislated in the Finance Act 2022 to increase the NMPA from 55 to 57, effective from 6 April 2028, for all registered pension schemes in the country. This section sets out how the government proposes to update the LGPS regulations to reflect this change.

7. To smooth the transition, the Finance Act 2022 provided for a Protected Pension Age (PPA). A member of any UK pension scheme has a PPA if 3 conditions are met:

- immediately before 4 November 2021, the member had an actual or prospective right to any benefit from an age of less than 57
- the rules of the pension scheme on 11 February 2021 included provision conferring such a right on some or all of the persons who were then members of the pension scheme
- the member either had such a right under the scheme on 11 February 2021 or would have had such a right had the member been a member of the scheme on 11 February 2021

Summary of proposals

8. LGPS regulations as at 11 February 2021 did confer the right to take pension benefits from age 55 to all members, and so the second and third conditions are met. If the member was in the LGPS immediately before 4 November 2021, meeting the first condition, the member will therefore have a PPA. There are also other circumstances where a member would have a PPA, such as by transferring an entire pension arrangement into the LGPS from a relevant registered pension scheme where the member previously had an actual or prospective right to take pension benefits from an age before 57.

9. In the LGPS, the government proposes to implement the protections related to the pension age as established by the Finance Act 2022, with an exception for members who transfer previous pension benefits into the LGPS, as outlined in category 2 below. The government believes that the intentions behind the changes to the Finance Act are clear, in that the changes clearly established a protection regime. There are 3 categories of members:

Category 1 – PPA from membership in the LGPS immediately before 4 November 2021

10. For those members who were in the LGPS immediately before 4 November 2021, the member will still be able to take pension benefits from their protected pension age, which will be age 55. This will also apply to other regulations that refer to age 55, such as Regulation 30(6) of the LGPS Regulations 2013 (flexible retirement) and Regulation 30(7) (redundancy).

Category 2 – PPA from transferring a pension arrangement into the LGPS

11. For those members who transferred a pension arrangement into the LGPS from a relevant registered pension scheme where the member previously had an actual or prospective right to take pension benefits from an age before 57, whilst the member will have a PPA in respect of the transferred benefits, the government proposes that the member would not be able to take the benefits from their PPA. The NMPA for such members would rise to 57 in line with the Finance Act.

12. The government understands that a member in this category who wished to take transferred benefits at 55 may disagree with their NMPA rising to age 57. Members will not lose out over the whole period they receive their pension by taking their benefits at 57 rather than 55, due to the way that benefits following early retirement are calculated to be actuarially neutral using early retirement factors. The government proposes this exception on the basis of LGPS scheme design. The scheme design of most public pension schemes, including the LGPS, requires members to take all their benefits in one pension account at the same time. This helps facilitate how protections in the scheme work such as the McCloud underpin or when someone retires on ill-health. At the point that a member may have decided to transfer in, there was no mechanism within the LGPS regulations to facilitate “ring-fencing” of different pension benefits.

13. Were government to allow members in this category to “ring-fence” their transferred in benefits and so take the benefits from age 55, the LGPS regulations would need to be redesigned in multiple areas, allowing members to take different benefits at different times and it would be very complex and costly. The government believes it would be disproportionate to re-design the scheme regulations for all members in this way.

Category 3 – no PPA
14. For those members who do not meet the cut-off point of immediately before 4 November 2021 and so do not have a PPA, the NMPA will rise to age 57, in line with the Finance Act 2022.

Category 4 – members with a PPA below age 55
15. There is no intention to change current policy towards those members who have already existing protections from paragraph 22 of schedule 36 to the Finance Act 2004. Those already able to draw benefits between age 50 and 55 will continue to be able to do so.

Administration and regulation changes

16. Government recognises that creating the protections for category 1 is administratively complex. Administrators will need to go back to immediately before 4 November 2021 and confirm if at that time the member had an unqualified or prospective right to take any benefit before age 57. The government views this complexity as necessary to meet the overall policy intent to establish a protection regime.

17. In order to incorporate the proposed changes above the government proposes amending regulations 30(5), (6), (7) and (12) of the LGPS Regulations 2013, changing the references to age 55 to refer to Normal Minimum Pension Age, as defined by the Finance Act 2022.

18. The government also intends to amend relevant regulations to give effect to the protections of the Finance Act, including the protections for category 1 members above. This will include amending earlier regulations to confirm no changes to current policy for members who already have existing protections. The government intends to publish draft regulations later in the year, once we have received responses on the principles proposed in this consultation.

Q1. Do you agree with keeping the NMPA at below 57 for members with a PPA?

Q2. Do you agree with increasing the NMPA to 57 for members without a PPA?

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

2. Access for councillors and mayors

Background

19. Neither mayors nor councillors are eligible for the LGPS in England. This contrasts with all other countries of the UK, where councillors are eligible for the LGPS Scotland and LGPS NI, and councillors in Wales are eligible for membership of a modified version of the LGPS England & Wales.

Summary of proposal

20. The government is progressing numerous policies with the aim of re-building and re-shaping local government. These range from local government reorganisation, to getting audit back on track, to reforming how we fund councils, to a new standards regime and to deeper devolution with more responsibility for mayors. Re-building local government requires the very best people working in local government.

21. Under these planned changes to local government, more will be asked of mayors and councillors. Mayors will also in many parts of the country be taking on the role of Police and Crime Commissioner- a role that is eligible for access to the LGPS. The government view is that councillors and mayors offer a vital public service, and should receive appropriate renumeration and suffer no financial disadvantage for their service.

Therefore, the government intends to re-instate access to the LGPS for councillors in England, and to offer access for mayors.

22. The government views the proposal as key to enabling and encouraging talented people to come into public service. The government also believes it important to have a consistent position for locally elected representatives across the UK.

Mayors

23. The proposal is that all mayors will have access to the LGPS. This includes:

- mayors and deputy mayors of combined authorities
- mayors and deputy mayors of combined county authorities
- mayors of single authorities (although their access will be as councillors, rather than in their role as mayors)

Councillors

24. The proposal is that all councillors of all principal local authorities will have access to the LGPS. This includes:

- County councils
- District councils
- London Boroughs
- The Common Council of the City of London
- The Council of the Isles of Scilly

25. The proposal is that the Mayor of London, deputy mayors and London Assembly Members will have access to the LGPS.

26. Welsh councillors will continue to have the same access to the scheme as they currently have. Government recognises that this access is to a different, modified version of the scheme, but there is no intention to compel Welsh councillors to align with the English proposals. Should Welsh stakeholders wish to align with the English proposals, the government will consider any such proposals in consultation responses.

27. Since the proposal is to cover all councillors of principal local authorities, both councillors who are a member of the combined authority or combined county authority and are remunerated for a role, and councillors who take up roles on scrutiny or audit committees for which they are remunerated, would be eligible for pension benefits on this remuneration.

Greater London Authority

28. The proposal is that both the Mayor of London and London Assembly Members will have access to the LGPS.

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

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

Principles

29. The government intends to develop new regulations to give effect to the proposal. Since mayors and councillors are not local government workers, the new regulations will need to cover numerous areas where the existing regulations would not function correctly. A draft set of regulations has been published alongside this consultation and we welcome views. The draft regulations categorise mayors and councillors as “elected members”.

30. The government plans to use 2 key principles in developing the 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 & Wales

31. Specifically, these principles lead to the following proposals:

- elected members will not be subject to auto-enrolment and, whilst each individual will have the right to join the scheme, elected members will need to assess whether they wish to do so
- an employer will not be allowed to award additional pension, make shared additional voluntary contributions or fund additional pension contributions to an elected member
- a new definition of pensionable pay will be used, to cover both basic allowances and special responsibility allowances paid to elected

members

- elected members will pay employee contributions at the same rates as other members, using the same bandings applied to their pensionable pay
- a member will not be permitted to combine any LGPS membership they may have as an elected member with any other type of LGPS membership
- flexible retirement (where a member over the age of 55 can start to receive their pension whilst still working, if the member reduces hours or grade) will not be permitted for an elected member
- early access on redundancy will not be permitted for an elected member
- elected members will be permitted to transfer benefits in and out of the LGPS in the same way as other members, with the exception of final salary benefits
- early and late retirement will be permitted in the same way as for other members
- elected members will be in scope of forfeiture regulations
- elected members will have access to the 50:50 scheme
- elected members will have the same protections around Assumed Pensionable Pay as other members

32. The government also intends to make consequential amendments, both to the Local Authorities (Members' Allowances) (England) Regulations 2003, and to establishment orders for combined authorities. These are considered necessary changes to give authorities the powers to pay pensions to elected members. The draft statutory instrument published alongside this consultation shows the proposed changes. Access to the pension scheme for elected members is intended to be an automatic right, and so the draft amendment requires that where an allowance is paid to an elected member, the authority must provide the member is entitled to a pension in accordance with the Public Service Pensions Act 2013 (i.e. must be offered access to the LGPS).

Cost

33. The Government Actuary's Department has estimated the potential increase in employer contributions at between £40-45 million per year, across England. This estimate relies on assumptions about the structure of local government, how many councillors and mayors will choose to join the scheme, the demographics of those in office, and the level of allowances

paid locally. As changes to local government are made through reorganisation, the number of councillors will decrease.

34. The government will not provide funding for employer contributions for the proposal. There is no funding for pension access for councillors in Scotland, Northern Ireland or Wales. The proposal should be seen in the context of the LGPS 2025 revaluation, where actuarial assessments suggest that there may be reductions in employer contribution rates.

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

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

3. Academies

Background

35. Over half of schools in England are now academies, and the vast majority of those academies are in Multi-Academy Trusts (MATs), with individual academy schools spread across the country. Because the LGPS Regulations 2013 (Schedule 3, Part 2) state that the appropriate administering authority for an academy is the administering authority in the geographical area where the academy is located, MATs often have academies spread across multiple administering authorities. Being spread like this can be inefficient and cause unnecessary administrative costs for employers.

36. Employers can apply for a direction from the Secretary of State under Schedule 3 part 2, paragraphs 3 and 4 of the LGPS Regulations 2013, which substitutes a different administering authority as the appropriate authority. For example, an academy in South Shields, which belongs to a MAT whose head office is in Barnsley, would automatically be in the Tyne & Wear Pension Fund, which is administered by South Tyneside Borough Council. The academy can apply for its LGPS members to be transferred instead to the South Yorkshire Pension Authority, which includes Barnsley, where the head office is.

37. Such directions, when granted, can also allow employers to consolidate their LGPS members into a single administering authority, and can include

requirements on adjustments between funds, the transfer of assets and liabilities, and any other consequential matters. Most applications for directions to date have been from academies, and so whilst our proposals below focus on academies, any employer can make an application.

38. Consolidation of academies into one administering authority may bring benefits for MATs and administering authorities such as potential administrative savings through a reduction in duplication of work and efficiency in approach. These benefits should be weighed against risks of consolidation at the local level, in particular the transfer of assets and member records. Existing LGPS information pages already encourage MATs to consider any effect that consolidation may have on their contribution rate as well as the cost of actuarial assessments required to consolidate. LGPS funds should also consider the balance between longer term investment strategy, competitiveness and the impact of contribution rates on cash flow.

39. Once an application is made, directions are at the discretion of the MHCLG Secretary of State, who is required to consult with bodies that would be affected by the direction. The 2013 LGPS Regulations do not limit the discretion or set criteria for approval.

Proposal 1: Establishing criteria and removing the requirement for SoS consent where criteria are met.

Establishing criteria

40. The lack of criteria for applications for a direction makes it difficult for employers and administering authorities to know how to construct their case and what the process will be for assessment. The government therefore intends to update the LGPS 2013 Regulations to establish criteria. The criteria build on the framework that MHCLG currently use. The proposal is for the following criteria:

a. There must be a clear and evidenced value-for-money assessment in favour of the consolidation (such as to achieve administrative efficiencies that outweigh the cost of transfer and actuarial fees).

b. There should be a pre-existing relationship with the administering authority that the MAT wishes to join or consolidate into (i.e. the MAT already has schools in that administering authority).

c. All administering authorities involved should agree to the change.

d. The receiving administering authority must be able to administer the transfer effectively.

41. For employers considering an application for a direction to consolidate into one administering authority, we specifically want to limit so-called “contribution rate shopping”, where an employer is seen to select the administering authority primarily based on where it can get the lowest contribution rate.

Removing the requirement for SoS consent where criteria are met

42. For situations where all of these criteria are clearly met, the government also proposes to remove the requirement to seek Secretary of State consent. The majority of applications received are straightforward and clearly meet all of the criteria above. In line with the government’s desire for greater devolution, we believe that Secretary of State consent is unnecessary in this situation and administering authorities and employers should be able to take decisions locally.

43. The government’s proposal to remove SoS consent in these situations relies on administering authorities and employers collaborating at the local level. The government however also proposes to create a process for unsatisfied parties to have the local decision, made without SoS consent, to be reviewed. For example, if a direction is made under this new proposal, i.e. without Secretary of State consent, but it later transpires that actually not all parties were in agreement, application to the Secretary of State for the direction would still be required. We expect that this will be very rare. MHCLG intends to provide guidance on when and how this new power should be used.

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

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

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

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

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

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

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

Proposal 2: Process for applications where criteria are not met.

44. For situations where the criteria are not met, the government proposes that applications to the Secretary of State will continue to be required. Based on recent applications for directions, this would most likely be situations where the current administering authority does not agree to the transfer.

45. The government supports applications for directions to consolidate within a single administering authority, where analysis shows that benefits clearly outweigh the costs in a particular case. The government wishes to avoid that an administering authority can veto otherwise sensible consolidation. Whilst government understands that no administering authority wants to lose the active members, it is for government to arbitrate in cases where local agreement cannot be reached.

46. Some administering authorities have raised cashflow as a potential issue. Losing active members as a result of a direction would mean fewer contributions coming in. The government would consider this on a case-by-case basis and consider evidence of significant adverse cashflow impacts.

47. We also recognise that there are many practical considerations were such a direction application to be approved, such as the transfer of assets or member records. Government expects to see robust evidence against the criterion that the receiving fund must be able to administer the transfer effectively.

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

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?

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

4. New Fair Deal

Definitions

48. For the purposes of this chapter:

- **"Deemed employer"** has the meaning given by Part 4 of Schedule 2 in the 2013 Regulations. It has the effect that for specific groups of employees, their 'Scheme employer' is not their employer in employment law but is instead their deemed employer.
- **"Fair Deal employer"** means a Scheme employer listed in paragraphs 1 to 13 or 15 to 29 of Part 1, or in Part 2, of Schedule 2 in the 2013 Regulations, or a further education corporation or sixth form college corporation as per section 90 of the Further and Higher Education Act 1992. It has the effect of identifying the original employer of individuals who have since been outsourced.
- **"Relevant contractor"** means a contractor to whom an employee's contract of employment is compulsorily transferred under regulation 4 of "The Transfer of Undertakings (Protection of Employment)" (TUPE) regulations from a Fair Deal employer (or a previous contractor). It has the effect of identifying the employer of protected transferees.

Introduction

49. The government consulted in 2016 (https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations) and 2019 (https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection) on the introduction of greater pensions protection for eligible employees of Local Government Pension Scheme (LGPS) employers who had been compulsorily transferred to service providers. The 2019 consultation proposed that, in line with the government's Fair Deal guidance of October 2013 (https://www.gov.uk/government/publications/fair-deal-guidance) (which specifically did not apply to local government), most LGPS members in this position should have continued access to the LGPS in their employment

with the service provider. In doing so, it was proposed that the current option to provide transferring staff with access to a broadly comparable scheme should be removed.

50. In 2022, the government responded to the 2019 consultation by stating that it was reconsidering its approach to Fair Deal in the context of the LGPS and would take account of representations made in response to the 2019 consultation (https://www.gov.uk/government/consultations/local-government-pension-scheme-fair-deal-strengthening-pension-protection) in its next consultation.

51. The government is committed to bringing pension protections in local government in line with the government's Fair Deal guidance of 2013 and this consultation sets out updated policy proposals for introducing Fair Deal in the LGPS, taking account of responses to previous consultations. The aim of these proposals is to ensure that transferred employees retain the security which comes with membership of the LGPS, a statutory scheme with benefits set out in law, and to enable LGPS employers to obtain better value from outsourced service contracts.

Background

52. The Fair Deal policy was first introduced in 1999, setting out how pensions issues should be dealt with when staff are compulsorily transferred from the public sector to service providers delivering public services. Under the original Fair Deal guidance, transferred staff had to be given continued access to their public service pension scheme or access to a scheme certified by an actuary in accordance with the Government Actuary's Statement of Practice (https://www.gov.uk/government/publications/assessment-of-broad-comparability-of-pension-rights) as being 'broadly comparable' to their previous public service pension scheme.

53. Following the publication of the original Fair Deal guidance, pensions protection for local government employees in England and Wales was provided through:

- the Best Value Authorities Staff Transfers (Pensions) Direction 2007 (https://webarchive.nationalarchives.gov.uk/ukgwa/20120919132719/www.communities.gov.uk/documents/localgovernment/pdf/pensions-direction-2007.pdf) ('the 2007 Direction' – covering employees of English authorities and Welsh Police authorities); and
- the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (https://www.gov.wales/sites/default/files/publications/2019-06/staff-transfers-pensions-direction-2012.pdf) ('the 2012 Direction' – covering employees of

Welsh improvement authorities and community councils), which has since been replaced with the Welsh Authorities Staff Transfers (Pensions) Directions 2022 (https://www.gov.wales/sites/default/files/publications/2022-09/welsh-authorities-staff-transfers-directions-2022.pdf) ('the 2022 Direction'). To note, Welsh Police Authorities were abolished in 2012 and replaced with Police and Crime Commissioners. Employees of Police and Crime Commissioners are not protected by any of the directions.

54. Under these Directions, protected employees who are transferred to a service provider following the contracting-out of a service or function must be given either continued access to the LGPS, or access to a scheme certified by an actuary to be 'broadly comparable' to the LGPS at the time of the transfer. It is the understanding of government that this certification has previously been done in accordance with the aforementioned Government Actuary's Statement of Practice, and in more recent years in accordance with the principles of the 2013 Fair Deal guidance.

55. HM Treasury published updated Fair Deal guidance (https://www.gov.uk/government/publications/fair-deal-guidance) in October 2013. It improved pension protection for outsourced central government workers by setting out that they should receive continued access to their public sector pension scheme after a transfer, rather than be provided with access to a broadly comparable scheme. It covers central government departments, agencies, the NHS, maintained schools (including academies) and any other parts of the public sector under the control of government ministers where staff are eligible to be members of a public service pension scheme. It does not cover authorities listed in section 1 of the Local Government Act 1999.

56. The 2016 consultation proposed that, in line with the 2013 Fair Deal guidance, most compulsorily transferred LGPS members should have continued access to the LGPS in their employment with the service provider. In doing so, it was proposed that the option to provide transferring staff with access to a broadly comparable scheme should be removed.

57. The government response to the 2016 consultation (https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations) confirmed a commitment to introduce the strengthened Fair Deal in the LGPS but noted that respondents had raised several concerns regarding the specific approach proposed. The government considered the points raised and the 2019 consultation contained updated proposals to implement a strengthened Fair Deal. The government has not published a detailed government response to the 2019 consultation, so those responses have been considered when drafting the updated proposals in this consultation.

58. The 2019 consultation proposed to align with the 2013 Fair Deal guidance by removing the option for broadly comparable schemes to be offered to outsourced local government workers and providing for them to

receive continued access to the LGPS instead. It also proposed to offer an alternative route to becoming an LGPS employer for service providers, the ‘deemed employer route’, where the original employer (and not the service provider) would be the Scheme employer. This was proposed as an alternative to admission agreements, which allow service providers to participate in the LGPS as individual Scheme employers.

59. The main aim of introducing the deemed employer route was to simplify pension requirements in outsourced contracts by encouraging further use of pass-through arrangements. Under pass-through, a service provider may pay a fixed contribution rate for the life of the contract or agree to pay contributions within a certain range.

60. The proposals also included an option for staff who were covered by the 2007 and 2012 Directions and had become members of broadly comparable schemes, to transfer their benefits back into the LGPS at the next retender of the contract.

61. Responses to the 2019 consultation were mixed. Whilst many respondents were supportive of the aim to improve pension protections for outsourced local government workers, there were a variety of concerns on the detail of the proposals. Some of the key concerns raised about the 2019 proposals were:

- that inward transfer terms for those who transfer their benefits from broadly comparable schemes back into the LGPS should be fair to members by honouring any benefits they have accrued with a final salary link
- that removing the option for broadly comparable schemes to continue without allowing for any exceptional circumstances could lead to legal issues for outsourcing bodies or service providers e.g., where there is a contractual obligation to provide a broadly comparable scheme
- that the draft regulations were a missed opportunity to consider introducing more explicit risk sharing provisions between service providers and outsourcing bodies
- that statutory guidance would be needed alongside Scheme Advisory Board guidance

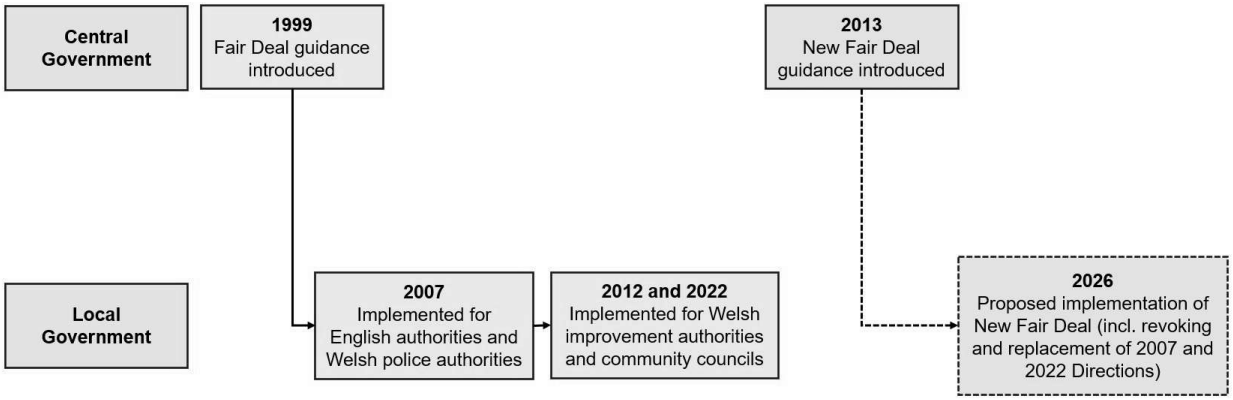

Figure 1 – Background of Fair Deal

Summary of proposals

62. This section sets out the detail of the updated proposals (see Table 1 below) to implement the strengthened Fair Deal pension protections in local government. In drafting the updated proposals, the government has fully considered the responses to both the 2016 and 2019 consultations. Where responses to the 2016 or 2019 consultations have directly impacted proposals in this consultation, it is made clear in the text.

63. The draft regulations that would deliver the changes are published alongside this consultation. They would apply in both England and Wales (unless clearly specified) and provide for the introduction of a new Schedule 2A to the 2013 Regulations (https://www.legislation.gov.uk/uksi/2013/2356). Where necessary, new statutory guidance will be published alongside the regulations to provide further detail on how the regulations should be applied. Further detail of what the government is planning to include in this guidance can be found in the section “Implementation of New Fair Deal proposals.”

Table 1 - Summary of effect of New Fair Deal proposals

	Before Proposals	After Proposals
Access route	There are **two ways** to provide outsourced workers with a pension: granting them access to the LGPS through the admission body option or enrolling them in another pension scheme	There is only **one way** to provide outsourced workers, now protected transferees, with a pension; granting them access to the LGPS in accordance with the deemed employer approach.

	Before Proposals	After Proposals
	that is broadly comparable to the LGPS.	The responsibilities of the Fair Deal Employer and the relevant contractor will be clarified accordingly.
Post-outsourcing staff	Staff hired by a relevant contractor after the initial outsourcing do not have the same pension rights as staff who transferred during an initial outsourcing. The former **do not have to be offered the LGPS or a broadly comparable scheme.**	Staff hired by a relevant contractor after the initial outsourcing **can be granted access to the LGPS.** Before the contract is put out to tender, the Fair Deal employer would need to decide whether the protected transferee status also applies to staff employed after the initial outsourcing.
Protections of accrued rights	Current regulations **do not allow outsourced workers to transfer a final salary pension into the LGPS and become entitled to final salary benefits under the LGPS**, when those benefits were provided as part of an outsourcing agreement.	The draft regulations **allow protected transferees to transfer their final salary pension from broadly comparable schemes into the LGPS** and ultimately preserve the value of those benefits. Any future pension accrual within the LGPS would still be on a CARE basis.
Continuity of responsibilities across contractors	**Pension agreements**, such as additional pension contributions or shared cost additional voluntary contributions, **end when the service contract is transferred to a new contractor.**	**Pension agreements**, such as additional pension contributions or shared cost additional voluntary contributions, **would ideally be honoured by the new contractor when the service contract is transferred.**

Removal of broadly comparable schemes

64. As the government now intends to introduce the strengthened Fair Deal protections in the LGPS, it is proposed that for future outsourcing exercises all service providers would be required to provide transferred staff with continued access to the LGPS rather than a broadly comparable scheme, other than in exceptional circumstances (set out in “Exceptional arrangements – continuation of broadly comparable schemes”).

65. This would strengthen existing protections significantly. Protected employees would have increased confidence and security in knowing that, despite their transfer, they would retain a right to all the benefits that come with membership of the LGPS, not least that it is a statutory scheme with benefits set out in law. Moreover, so long as the protected employees continue to work wholly or mainly on the activities which are being carried out by the service provider on the Fair Deal employer’s behalf, they would continue to have that protection even if the service is retendered or transferred again.

66. The removal of broadly comparable schemes as an option, other than in exceptional circumstances, is in line with the adoption of the 2013 Fair Deal guidance by other central government schemes and would also simplify pension requirements for outsourcing bodies and service providers. The Treasury’s update to Fair Deal guidance in 2013 removed the option of broadly comparable schemes in response to the Interim Report from the Independent Public Service Pension Commission (https://www.ucu.org.uk/media/4328/Independent-Public-Service-Pensions-Commission---interim-report-7-Oct-10/pdf/hutton_pensionsinterim_071010.pdf), which found that offering a broadly comparable scheme can be a significant barrier for service providers considering bidding for government contracts because of the high cost and risk levels involved.

67. The scale of the barrier of broadly comparable schemes in the LGPS is unknown, partly because most service providers involved in local government outsourcings have avoided the cost and risk of offering a broadly comparable scheme by applying to join the LGPS as an admission body via an admission agreement. However, the Government Actuary’s Department is aware of two broadly comparable schemes (Mercer DB Master Trust and the Dolce Limited Retirement Benefits Scheme) providing benefits to active members who have been outsourced under contract from local government. These had an estimated total of around 230 members in September 2024 with some members currently accruing benefits. Therefore, removing the option for broadly comparable schemes to be offered in the future should mean that pension requirements are simplified for service providers and all outsourced local government workers eligible for Fair Deal protection will have access to the LGPS, rather than a broadly comparable scheme.

68. The government is aware that there may be other broadly comparable schemes and is seeking further details on these schemes, to better understand any potential impact of the proposals in this consultation.

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?

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.

Removal of admission body option for future local government outsourcings

Background on the admission body option

69. As stated above, the government understands that most service providers have looked to meet the requirements of the 2007, 2012 and 2022 Directions, not by offering broadly comparable schemes, but instead using admission body agreements to join the LGPS as employers and therefore be able to provide staff with continued membership of the LGPS. However, this process is not always smooth for affected staff - it can be prolonged and costly, with delays meaning that admission agreements may not be in place before the contract starts and can be left unsigned for several years. This leaves transferred staff in limbo without accurate information about their benefits, and where affected individuals are approaching retirement age these delays can affect their retirement plans.

70. Unfinished admission agreements also generate a significant administrative burden for funds and outsourcing bodies who must chase service providers to get them finalised. Where an admission body agreement is not in place once the contract has begun, funds are unable to invest contributions for affected staff, which results in a loss of investment returns and additional costs, which could in turn fall to the outsourcing body at the end of the contract.

71. The increased use of admission body agreements for service providers has also contributed to the increasing number of employers in the scheme (13,033 in 2014-15 (https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F5a815023e5274a2e87dbcf13%2FPension_1415_local_authority_drop_down_table_-_revised.xlsx&wdOrigin=BROWSELINK) compared with 21,131 in 2023-24 (https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F6846dd1c0392ed9b784c01c1%2FTables_1-6_-_England_and_Wales_23-24_-_June_2025_-_ecomms.ods&wdOrigin=BROWSELINK). This creates an additional administrative burden for funds who must regularly engage with individual

employers, sometimes with very few LGPS members on their staff. It also increases actuarial fees at fund valuations because actuaries need to assess each admission body and set their contribution rates.

72. Where the admission body route is used there is also a risk of a significant payment being due at the end of a contract in the form of an exit payment or credit. This is because at the end of a contract the service provider will cease to be an employer in the LGPS (unless they retain the contract), and will become an exiting employer, meaning an actuarial valuation is required and any surplus or deficit needs to be settled. This is a significant risk for both the outsourcing body and the service provider, which can lead to service providers charging a risk premium, adding costs for the outsourcing body.

73. Except under recent pass-through arrangements (see below), admission bodies have their own individual contribution rates. They will generally have a weaker covenant than outsourcing bodies (as they do not have tax-raising powers) and so the employer contribution rate they pay will often be higher than the rate of the outsourcing body. This leads to higher pension contributions and risk for service providers bidding for local government contracts. Admission agreements set out how that risk is transferred from the outsourcing body to the service provider, but the outsourcing body will either act as a guarantor, meaning they are ultimately still responsible for the pension liabilities if the service provider was unable to meet those liabilities, or the fund will require a bond or indemnity from the service provider. Even where the latter is used, this cost will often be passed on to the outsourcing body through the contract price, meaning that a very limited transfer of risk takes place. That risk reduces competition and means that those providers that do bid for services need to build in a significant buffer for pension costs into their contract price. This in turn makes outsourcing services more costly for outsourcing bodies.

Introduction of the Deemed Employer route in the 2019 consultation

74. In the 2019 consultation, the government wished to encourage the use of pass-through agreements between Fair Deal employers and service providers. Under pass-through, a service provider may pay a fixed contribution rate for the life of the contract or pay the contributions within a certain range. The funding risk largely remains with the Fair Deal employer, who may retain responsibility for any shortfall in contributions, as well as the benefit of any surplus.

75. Pass-through arrangements simplify the pension requirements for service providers and reduce the level of risk, which reduces the pension costs and could open the market for local government contracts.

76. To encourage further use of pass-through the government proposed a new route for service providers to access the scheme, called the deemed employer approach. As already referred to, deemed employer status means that, for specific groups of employees, their ‘Scheme employer’ is not their

employer in employment law but is the deemed employer (the Fair Deal employer) instead.

77. In other terms, the contracting authority would remain as the deemed employer for pension purposes for any transferred staff. As stated earlier, the deemed employer is considered to have the meaning given by Part 4 of Schedule 2 in the 2013 Regulations. For example, under the 2013 Regulations, the deemed employer for the employees of voluntary schools is the local authority.

Removal of the admission body option and adoption of the deemed employer route

78. Responses to the inclusion of the deemed employer route were mixed. Some respondents felt that further clarity of the deemed employer route was needed in regulations, whilst others felt that it should be included as a default approach where agreement had not been reached prior to the start date of a contract.

79. These concerns have been taken into account and the government is now proposing to create a clearer path for Fair Deal employers and service providers to consider when negotiating a service contract involving the transfer of protected transferees. Under these proposals, the deemed employer approach would be used for all future outsourcings by Fair Deal employers, except in exceptional circumstances. This would mean that admission body status would no longer be permitted for future contract outsourcing and/or re-awards.

80. The government is proposing that future contracts adopt a clearly defined pass-through arrangement. The effect of that arrangement would be that the Fair Deal employer would be deemed to be the Scheme employer, whilst the relevant contractor would still take on some of the responsibilities of the Scheme employer. The detail of how those responsibilities are proposed to be split is further in “Responsibilities for relevant contractors”.

81. The government considers this approach would have a number of benefits:

- over time this should halt the growth in, and ultimately reduce, the number of employers in the scheme
- it would ensure that in the future transferred staff would benefit from seamless access to the LGPS during and after a transfer because their employer for pension purposes would not change – nor would their scheme
- it would remove the administrative burden of chasing admission body agreements that are not signed by the contract start date, and should yield savings in both administrative and actuarial costs

- whilst the funding risk would remain with outsourcing authorities, in the current system, where admission body agreements are used, risk is in theory transferred to the service provider but will have often been priced into the contract, meaning that it is the outsourcing authority who bears the risk of non-payment of pension contributions or financial failure of the service provider

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?

Fair Deal employers

82. To clarify which employers the strengthened Fair Deal protections will apply to, the draft regulations define a new type of Scheme employer, a 'Fair Deal employer'. In effect, these employers are to be viewed as the deemed employer of protected transferees (those to whom the New Fair Deal protections will apply). For those individuals who have been transferred to service providers, the deemed employer mechanism means that for various purposes and functions, the Fair Deal employer (and not their outsourced employer – "relevant contractor") will be deemed to be their employer. Further information on that split of responsibilities is in the "Responsibilities for relevant contractors" section.

83. In the 2019 consultation, it was proposed that all LGPS Scheme employers would become Fair Deal employers, except for:

- further education corporations, sixth form college corporations and higher education corporations (i.e. post-1992 universities)
- admission bodies

84. These employers were omitted from the Fair Deal employer definition as at the time of consultation they were not classified as public sector bodies.

85. However, in November 2022, further education colleges, sixth form colleges and designated institutions in England were reclassified by the Office of National Statistics (https://www.gov.uk/government/publications/reclassification-of-fe-colleges-sixth-form-colleges-and-designated-institutions-in-england-to-the-central-government-sector) as being part of the central government sector. Therefore, it is now proposed that they should be in scope of these proposals and included in the definition of a Fair Deal employer, whilst higher education corporations

and admission bodies remain as non-public sector bodies and therefore out of scope.

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

Protected transferees

86. To clarify who will be eligible for the improved Fair Deal pension protections, the draft regulations refer to a group of members with protected rights – protected transferees. Protected transferees would have a right to continued access to the LGPS, even where the contract they are working on is compulsorily transferred under TUPE to a service provider (defined in the draft regulations and from this point on as a relevant contractor).

87. Protected transferees would retain their protected transferee status and access to the LGPS so long as they remain working 'wholly or mainly on the outsourced activities which are being carried out by the relevant contractor on the Fair Deal employer's behalf'. This protection would also apply if the protected transferee is involved in a subsequent compulsory transfer of employment or retender, in line with the Best Value Directions.

88. To implement this, the draft regulations provide that any active member or person eligible to be an active member of the LGPS working for a Fair Deal employer directly before a TUPE service provision transfer to a relevant contractor, will become a protected transferee. They also provide that protected transferees will retain their protection where they are involved in subsequent TUPE transfers, so long as they remain working 'wholly or mainly on the activities which are being carried out by the subsequent relevant contractor on the Fair Deal employer's behalf'.

89. There could be occasions where Fair Deal employers may wish to provide all staff working on an outsourced contract with the same pension protections, regardless of whether they were involved in an eligible TUPE transfer. This could, for example, be applied to those who join the contract after outsourcing due to staff turnover. The draft regulations allow this, so long as the staff remain working 'wholly or mainly' on the activities which are being carried out by a relevant contractor on the Fair Deal employer's behalf. This would enable the Fair Deal employer to avoid a two-tier workforce on contracts that they have outsourced.

90. The government plans to work with the Scheme Advisory Board, Local Government Association, and other stakeholders, to develop and publish statutory guidance alongside these regulations that will include further detail

on the definition of the term ‘protected transferee’, the responsibilities and requirements for the Fair Deal employer and the relevant contractor, and further detail on the option to allow all staff working on a contract outsourced by a Fair Deal employer to be protected transferees. More information on the guidance that is planned can be found in the “Implementation of New Fair Deal proposals”.

Q22. Do you agree with the proposed definition of 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?

Responsibilities for relevant contractors

91. Currently, admission body agreements include details of the responsibilities and requirements for service providers. However, as it is proposed that admission body agreements for local government outsourcings would be removed, it is important that there is clarity around the responsibilities for relevant contractors moving forward. Whilst the Fair Deal employer would remain as the deemed employer for protected transferees for pension purposes, the relevant contractor would still be their legal employer and so in practice have a range of pension-related responsibilities.

92. The government’s proposal for how those responsibilities would be split between Fair Deal employer and relevant contractor are seen in full in the draft Regulations and in summary in the table below.

Table 2 - Proposed split of responsibilities between RC and FDE

Responsibility	Relevant Contractor (RC) or Fair Deal employer (FDE)
Receipt and handling of applications to join or leave the LGPS, or move in and out of 50:50	RC
Decisions on contribution rate to apply to members	FDE to make these decisions by default, but RC can agree with FDE to take them

Responsibility	Relevant Contractor (RC) or Fair Deal employer (FDE)
	on.
Decisions on assumed pensionable pay and ill-health retirement	RC to make these decisions (with support of the FDE for ill-health retirement)
Payment of contributions	Further detail below
Decisions about Shared Cost Additional Pension Contributions and Shared Cost Additional Voluntary Contributions	Further detail below
Forfeiture applications and associated powers	RC and FDE to both have involvement, as per the draft Regulations
Decision on time limits for members to make elections	RC to decide, with option to follow FDE policy where applicable
Late payments to administering authorities and payments of additional costs	FDE to take responsibility in cases where RC has failed to make timely payment (within 1 month) and where additional costs are due to administering authorities because of the RC's performance in carrying out scheme functions.
Decision-making and dispute process	The same processes which apply to the FDE will apply to the RC, and the RC may appoint the same independent adjudicator as the FDE

93. In summary, the main responsibilities of the relevant contractor would be to give protected transferees access to the LGPS and to pay regular contributions for the duration of the contract. The relevant contractor would need to pay the full primary contribution rate, of the Fair deal employer, for all protected transferees. This is the rate determined by the Scheme Actuary in accordance with regulation 62(5), including the cost of administration and before any reductions for insured death or ill-health benefits selected by an employer. The Fair Deal employer would need to pay the secondary contribution rate, which would include any deficits or surpluses that might accrue over time.

94. It would be for the relevant contractor and Fair Deal employer to decide if the primary contribution rate would be fixed (set at the rate of the most

recent valuation at time of contract agreement) or floating (based on an agreement between relevant contractor and Fair Deal employer). If the fixed option were to be taken, then the Fair Deal employer would be taking on the risk that if the contract duration runs into a new valuation period and in that period contribution rates were to be increased, they would be liable for any increased payments (unless otherwise agreed with the relevant contractor). Alternatively, if contribution rates were to be decreased, the relevant contractor would be overpaying contributions, which would be reflected in the original contract price, and so the administering authority, Fair Deal employer and relevant contractor would need to agree at contract stage the mechanism by which those overpayments would be addressed.

95. Additionally, that decision of a fixed or floating contribution would need to be decided before the contract is put out to tender, to allow all involved parties to understand their obligations before bids are made and judged.

96. The expectation of the above arrangements is that they would lead to lower contribution rates for relevant contractors. This would be because the rates applied to them would be based on the rates of the Fair Deal employer, which would be expected to be lower due to their typically stronger covenant.

97. The relevant contractor would also be liable for any costs arising from pension-related decisions they take, including but not limited to:

a. A active member being awarded early retirement or early flexible retirement.

b. A member over the age of 55 being offered redundancy.

c. A decision to waive any reduction in pension benefits.

d. Any award of additional pension, or employer contributions to shared cost additional pension contributions or shared cost additional voluntary contributions.

e. A decision to ‘switch on’ the 85-year rule when the member retires from active status (if the member is under 60).

98. Whether the primary contribution rate is fixed or floating, the deemed employer approach would reduce the level of risk for service providers (relevant contractors), which should enable more contractors (particularly SMEs) to enter the market for local government contracts. It would also mean that contractors would be likely to build in less of a risk premium into their contract price because they have more certainty about their pension costs and liabilities.

99. The draft regulations also set out the consequences for late payment of member and employer contributions by a relevant contractor. It is proposed

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.

100. Furthermore, relevant contractors would have a responsibility to provide their administering authority and/or Fair Deal employer with all necessary data relevant to comply with their pension-related obligations.

101. The general principle that would apply to all agreements is that the roles and responsibilities of the relevant contractor should be made clear in the service contract. The government plans to work with stakeholders to develop statutory guidance that clarifies what should be included as standard. Additionally, the government is also considering commissioning the Scheme Advisory Board to produce supportive guidance in this area. Further detail of this is given in “Implementation of New Fair Deal proposals”.

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?

Continuity of responsibilities across contractors

102. Under existing rules, when members enter into shared cost additional pension contribution (APC) or shared cost additional voluntary contribution (AVC) agreements, those agreements end when that member moves to a new employer, including in cases of compulsory transfers. The government recognises that this disrupts the continuity of pension arrangements for affected members and is seeking views on how such agreements should be handled in the future.

103. One option is that any subsequent relevant contractor should be required to honour the original agreement. This would simplify pension arrangements for the protected transferee and ensure that pension arrangements are unaffected by any outsourcing of the contract they are working on. It would, however, complicate decisions to outsource contracts as potential new relevant contractors would have to include considerations of any such arrangements in their decision to take on those contracts. This is the government’s preferred option, to best protect the rights of working members.

104. A second option would be that the initial agreement is only binding on the relevant contractor it is made with, or, in the case of lost pension, the

contractor at the time the pension loss occurred and who would otherwise be responsible for meeting the obligation. This would have the benefit of simplifying outsourcing for relevant contractors, whilst impacting the pension arrangements of protected transferees who have no say in whether the contract they are working on is outsourced.

105. A third option is that the responsibilities of the original relevant contractor would be taken on by the Fair Deal employer, allowing the pension arrangements of the protected transferee and the outsourcing process to be unaffected, but at cost of the relevant contractor that made the original agreement.

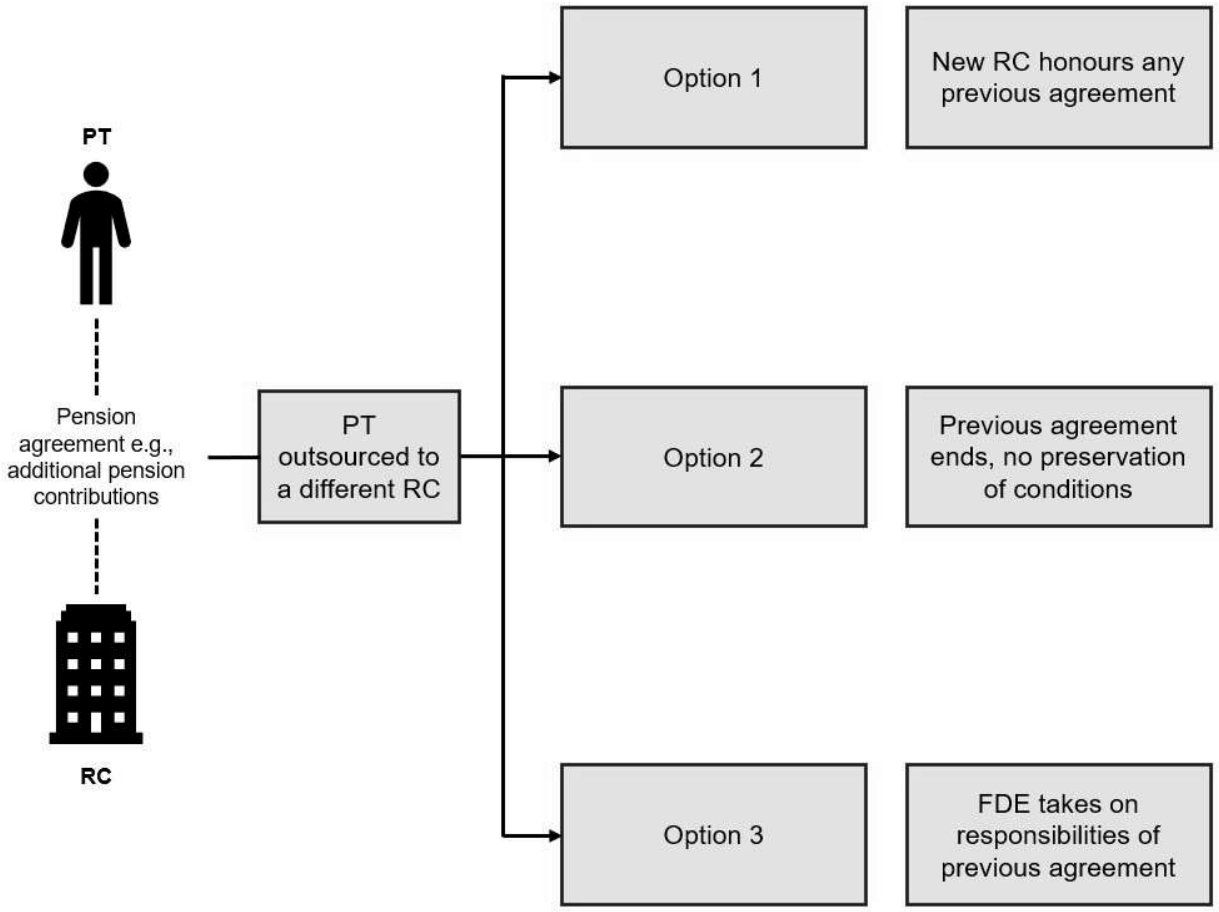

Figure 2 – Options for continuation of previous agreements between PT and RC

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.

Exceptional arrangements – continuation of broadly comparable schemes

106. It is important to the government that those who have previously worked in local government and who are protected under either the 2007 or 2022 Directions are offered protected transferee status at the earliest possible opportunity. The draft regulations accompanying the 2019 consultation provided that when contracts that fell under the 2007 or 2012 Directions were next re-tendered, protected staff would become protected transferees under the 2013 Regulations and gain a right to membership of the LGPS.

107. Respondents were generally supportive of this approach in 2019, but some highlighted the lack of flexibility in not allowing broadly comparable schemes to continue in any circumstances.

108. The government has a strong preference for staff to be transferred back into the LGPS wherever possible. However, where (1) the Fair Deal employer would be unable to meet the requirement set out in subsection 12(2) of the Procurement Act 2023 to treat all suppliers the same, and (2) the difference between suppliers does not justify different treatment, the draft regulations provide that staff may be offered membership to a broadly comparable scheme. Nonetheless, the government considers that, in most cases, difference between suppliers with respect to continued LGPS access do justify different treatment, particularly in light of the issues outlined in the section “Removal of broadly comparable schemes”. Where those exceptional circumstances apply, staff would continue to be protected by the 2007 or 2022 Directions (and any replacements to them).

109. The government encourages respondents to share their views on the exception described above and on any other exceptional circumstances that should be considered. Subject to responses, statutory guidance will be published to set out further detail on the process that should be followed where exceptional circumstances arise. Further detail of this is given in “Implementation of New Fair Deal proposals”.

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

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

Transitional arrangements – inward transfers from broadly comparable schemes

110. In 2019, it was proposed that transferred employees who were entitled to pension protection under the 2007 or 2012 Directions and were given access to a scheme certified as broadly comparable to the LGPS, should have a right to transfer their benefits from their broadly comparable scheme to the LGPS. It was proposed that the value of these transfers would proceed on a Cash Equivalent Transfer Value (CETV) basis, using factors contained in actuarial guidance issued by the Secretary of State.

111. Whilst respondents were broadly supportive of the proposal for these staff to have the option of transferring their benefits back into the LGPS, several respondents pointed out that using CETV factors for the inward transfers would mean staff with final salary benefits would lose out. This is because the inward CETV would reflect the value of a deferred pension in the broadly comparable scheme, with pre-retirement revaluation in line with price increases, whereas the CETV-in factors used by the receiving LGPS fund would take into account the expected future salary increases (generally assumed to be higher than price increases). This would then result in a loss of final salary benefits measured in terms of years of pensionable service.

112. The government has considered these responses and is now proposing to align more closely with the updated 2013 Fair Deal guidance which sets out that inward transfer values from broadly comparable schemes should be calculated using bulk transfer values, which would protect any final salary benefits accrued. The intention, which would be set out in the accompanying guidance, is that the bulk transfer terms would be non-negotiable, and would provide a year for year service credit without any additional shortfall contribution being required at the time.

113. To implement this, the draft regulations allow for inward bulk transfers into the LGPS. This sets out that where one or more people who have accrued benefits in another occupational pension scheme become members of the LGPS and agree to transfer their benefits from their other occupational pension scheme into the LGPS, the administering authority may accept the transfer value.

114. In addition, the draft regulations allow for the transfer of final salary benefits, from a broadly comparable pension into the LGPS, in a way that ensures that those transferred benefits continue to provide final salary benefits. To be clear, this would preserve the value of previously accrued final salary benefits, whilst providing that any future accrual within the LGPS would be a CARE accrual, in line with the 2013 Regulations, regardless of

whether the member has final salary benefits from previously accrued service.

115. The government is proposing that it would work with the Government Actuary's Department and the Scheme Advisory Board to draft guidance that would set out clear expectations for how these transfers should be calculated and processed where the transfer includes members covered by the 2007 or 2022 Directions. Further detail of this is given in "Implementation of New Fair Deal proposals".

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

Early re-negotiation of contracts

116. There may be circumstances under the proposed system where it would be beneficial to renegotiate a contract with a relevant contractor before it ends. For example, this could be to bring staff back into the LGPS early where a broadly comparable scheme is currently being used. In these renegotiations, it would be the responsibility of the parties involved to seek advice on their legal rights and obligations.

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?

Optional expansion of New Fair Deal beyond originally outsourced workers

117. The draft regulations outline that when a contract is renegotiated or retendered, all staff working on an outsourced contract (at that point) can be granted protected transferee status. This protection would apply provided the staff continue to work "wholly or mainly on the activities which are being carried out by a relevant contractor on the Fair Deal employer's behalf". To ensure the contract is retendered on an equal basis, the Fair Deal employer would need to decide before the contract is put out to tender if the protected transferee status would also apply to workers who join after the contract is

initially outsourced. That protected transferee status would then be maintained in the event of any subsequent transfers, in the same way it would for the originally outsourced workers. This differs from the current situation where staff who join after an initial outsourcing are not protected or covered by the Best Value Directions, whilst noting that those staff may still be offered LGPS membership, via an “open” admission agreement.

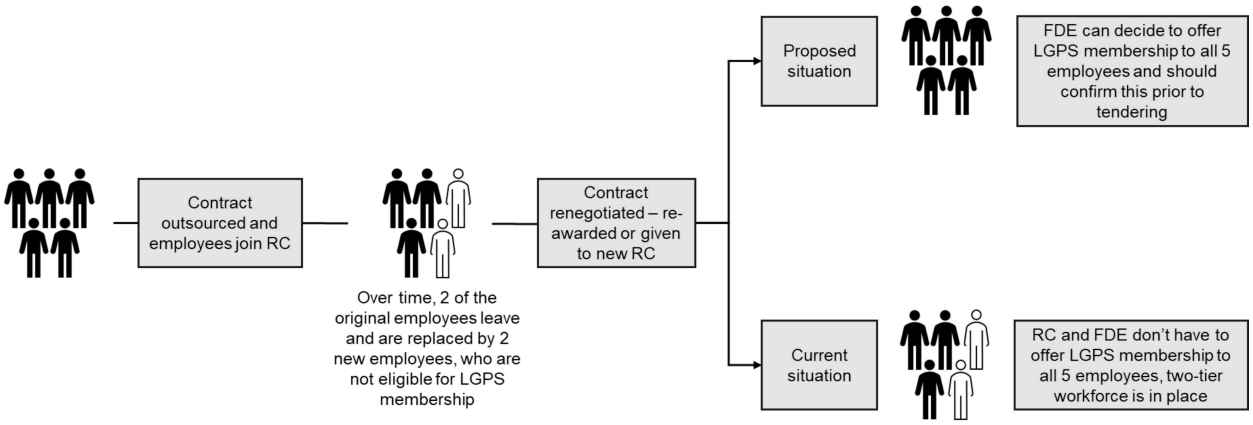

Figure 3 – Proposed approach to allow extended LGPS membership

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?

Implementation of New Fair Deal proposals

118. To enable the sector to negotiate contracts under the new regulations as quickly as possible but also give flexibility and adequate time to prepare for these changes, the draft regulations are proposed to come into force at the date the parliamentary timetable allows the statutory instrument to be laid. From the date the statutory instrument is laid, outsourced staff will receive protected transferee status and have to be transferred back into the LGPS when the following happens:

- when an outsourcing body enters into a new contract with a contractor for the provisions of services (first outsourcings)
- when currently outsourced contracts are renewed, extended or re-procured; or
- If the relevant contractor and the Fair Deal employer decide that it would be beneficial to renegotiate the contract before it ends

However, the new regulations include an optional 6-month transitional period from the date they come into force. This is intended to avoid

unnecessary and unexpected costs being placed on funds and employers. During this 6-month transitional period, for any contract that is newly signed, reviewed, re-procured or re-negotiated, there is the possibility to opt out of the new provisions. In cases involving a tender process, the Fair Deal employer would need to decide before the service contract is put out to tender if the specific contract will make use of the transitional period, enabling all relevant parties to understand their obligations before bids are made.

119. The government is also proposing that the 2007 Direction is to be revoked and replaced by a new Direction, aligned with the proposals in this consultation. That proposed Direction can be found attached to this consultation. The main difference in the new Direction is that it allows for the transfer back into the LGPS of all eligible members, by deeming the LGPS pension rights they are being provided with as broadly comparable to or better than the pension rights they had, or had a right to acquire, if they had remained with the Fair Deal employer.

120. A corresponding process would also take place regarding the 2022 Direction, to the same effect.

121. The group of particular interest to the government in this case is those individuals currently outsourced, with access to final salary benefits, who would now be being moved back into the LGPS, into a non-final salary benefits scheme. The government understands there to only be a small number of people in such a situation, but wishes to understand their views in particular.

122. Subject to responses, the government is also proposing to work with the Scheme Advisory Board, the Government Actuary's Department, the LGA, and other stakeholders, to develop and publish statutory guidance based on the 2013 Fair Deal guidance to aid the implementation of the proposals. This will replace the current 2009 admission body guidance (https://www.lgpsregs.org/timelineregs/Statutory%20Guidance%20and%20circulars/CLG_AdmittedBody_guidance_Dec09.pdf) and could include the following sections:

a. Definition of a Protected Transferee
b. New staff joining a local government contract
c. Definition of a Fair Deal employer
d. Deemed employer status and employer responsibilities
e. Exceptional arrangements
f. Transitional arrangements for staff currently covered by the 2007 or 2022 Directions

123. The government is also considering commissioning the Scheme Advisory Board to draft and publish additional guidance which could include sections on:

g. The procurement process
h. Employer responsibilities
i. Administration

124. The government also intends to update the relevant sections of the Model Services Contract to ensure it aligns with the updated New Fair Deal proposals for the LGPS.

125. The government recognises that the proposals would have impact on members, particularly in the potential cases of those being moved from broadly comparable final salary benefit schemes back into the LGPS as a CARE scheme. As such, the government wishes to understand if any respondents consider this, or other impacts, should be considered and whether additional protections would be necessary.

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?

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.

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?

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

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

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.

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

5. Public Sector Equality Duty

126. Under the Public Sector Equality Duty (“PSED”), the government is required to have due regard to the need 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

127. The protected characteristics which should be considered are:

- age
- disability
- sex
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity
- race
- religion or belief
- sexual orientation

128. The government has access to up-to-date data on the age and sex of LGPS members, but not complete or up-to-date data on the other protected characteristics. Outlined below are the PSED considerations arising from the data the government does have, but respondents to this consultation are encouraged to share any evidence they may have on the potential impact of the proposals on any of the above protected characteristics.

Normal Minimum Pension Age

129. Members of the scheme who are approaching their NMPA, such as those in their early 50s, are those most affected by the government’s proposals, since they are closest to their NMPA and have less time to plan ahead. The most relevant protected characteristic is age.

130. The proposals in this document follow from the decision to raise the NMPA, taken through the Finance Act 2022. For members without a protected pension age, such as a member in their early 50s who joined the LGPS after November 2021, proposals will mean that pension benefits

cannot be taken at 55 anymore. This is a long-known change, originally announced in 2014.

131. The proposals will impact men and women equally as the NMPA is the same for both genders. The government does not expect any particular impacts on other groups sharing protected characteristics, as the NMPA applies equally to all.

LGPS for mayors and councillors

132. The proposals for mayors and councillors are about extending pension access to persons who did not previously have access to the scheme. As such the government considers the proposals to have positive impacts only. These positive impacts will be on those who are councillors and mayors in England, and so reflect the characteristics of that cohort. The LGA 2022 census of councillors showed that 59% of councillors were male, 92% white and the average age is 59.5. The proposal is intended to encourage more younger councillors to serve.

Academies

133. The proposals for academies and direction orders are about efficient administration, and do not impact pension benefits for individuals. Therefore, the government does not consider there to be impacts on groups sharing protected characteristics.

New Fair Deal

134. The decision to outsource contracts is taken by local authorities, within the rules and spirit of the LGPS, but without government intervention or influence.

135. The proposals in this document would apply to all workers outsourced from local government and as such, which the government does not believe affects particular groups disproportionately. As such, the proposed changes are not seen to affect any groups in particular.

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.

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

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 and UK data protection legislation. In certain circumstances this may therefore include personal data when required by law.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the information access regimes and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will at all times process your personal data in accordance with UK data protection legislation and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included below.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the complaints procedure (https://www.gov.uk/government/organisations/ministry-of-housing-communities-local-government/about/complaints-procedure).

Personal data

The following is to explain your rights and give you the information you are entitled to under UK data protection legislation.

Note that this section only refers to personal data (your name, contact details and any other information that relates to you or another identified or identifiable individual personally) not the content otherwise of your response to the consultation.

1. The identity of the data controller and contact details of the Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk or by writing to the following address:

> Data Protection Officer
> Ministry of Housing, Communities and Local Government
> Fry Building
> 2 Marsham Street
> London
> SW1P 4DF

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

We will collect your IP address if you complete a consultation online. We may use this to ensure that each person only completes a survey once. We

will not use this data for any other purpose.

Sensitive types of personal data

Please do not share special category personal data or criminal offence data if we have not asked for this unless absolutely necessary for the purposes of your consultation response. By 'special category personal data', we mean information about a living individual's:

- race
- ethnic origin
- political opinions
- religious or philosophical beliefs
- trade union membership
- genetics
- biometrics
- health (including disability-related information)
- sex life; or
- sexual orientation

By 'criminal offence data', we mean information relating to a living individual's criminal convictions or offences or related security measures.

3. Our legal basis for processing your personal data

In most cases the legal bases under data protection legislation will be those below. If the consultation is likely to collect special category data you should contact dataprotection@communities.gov.uk as additional lawful bases will need to be specified.

The collection of your personal data is lawful under article 6(1)(e) of the UK General Data Protection Regulation as it is necessary for the performance by MHCLG of a task in the public interest/in the exercise of official authority vested in the data controller. Section 8(d) of the Data Protection Act 2018 states that this will include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department i.e. in this case a consultation.

Where necessary for the purposes of this consultation, our lawful basis for the processing of any special category personal data or 'criminal offence' data (terms explained under 'Sensitive Types of Data') which you submit in response to this consultation is as follows. The relevant lawful basis for the

processing of special category personal data is Article 9(2)(g) UK GDPR ('substantial public interest'), and Schedule 1 paragraph 6 of the Data Protection Act 2018 ('statutory etc and government purposes'). The relevant lawful basis in relation to personal data relating to criminal convictions and offences data is likewise provided by Schedule 1 paragraph 6 of the Data Protection Act 2018.

4. With whom we will be sharing your personal data

MHCLG may appoint a 'data processor', acting on behalf of the Department and under our instruction, to help analyse the responses to this consultation. Where we do we will ensure that the processing of your personal data remains in strict accordance with the requirements of the data protection legislation.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for 2 years from the closure of the consultation, unless we identify that its continued retention is unnecessary before that point.

6. Your rights, e.g. access, rectification, restriction, objection

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

a. to see what data we have about you

b. to ask us to stop using your data, but keep it on record

c. to ask to have your data corrected if it is incorrect or incomplete

d. to object to our use of your personal data in certain circumstances

e. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with

the law. You can contact the ICO at https://ico.org.uk/ (https://ico.org.uk/), or telephone 0303 123 1113.

Please contact us at the following address if you wish to exercise the rights listed above, except the right to lodge a complaint with the ICO: dataprotection@communities.gov.uk or

> Knowledge and Information Access Team
> Ministry of Housing, Communities and Local Government
> Fry Building
> 2 Marsham Street
> London SW1P 4DF

7. Your personal data will not be sent overseas

8. Your personal data will not be used for any automated decision making

9. Your personal data will be stored in a secure government IT system

We use a third-party system, Citizen Space, to collect consultation responses. In the first instance your personal data will be stored on their secure UK-based server. Your personal data will be transferred to our secure government IT system as soon as possible, and it will be stored there for two years before it is deleted.