

Response ID ANON-38MK-W3CQ-1

Submitted to Local Government Pensions Scheme in England and Wales - Scheme Improvements (Access and Protections)

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About You

What is your name?

Please provide your name:

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What is the first part of your post code?

First part of your postcode:

TS1

Type of respondent (select one)

Administering authority

Other (please specify):

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

Individual

Further information on your group or organisation

What is the name of the group or organisation you are submitting a response for?

Name of group or organisation:

Teesside Pension Fund

Please provide a summary of the people or organisations you represent and who else you have consulted to reach your responding conclusions.

Please provide a summary of your group or organisation:

Middlesbrough Council acting as Administering Authority of the Teesside Pension Fund has consulted its Pension Committee and Local Pension Board.

Administration and regulation changes

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

Yes

Please explain the reasons for your view:

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

Yes

Please explain the reasons for your view:

If this change is not made, the LGPS regulations would permit payments that are considered unauthorised under pension tax legislation, which could jeopardise the Scheme's status as a registered pension scheme.

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

Please provide your views:

Under these proposals groups of workers with different characteristics working for the same employer will have different entitlements according to the pension scheme they are or were in and the date they joined their scheme. This may lead to legal challenge and the government should either treat everyone equally or ensure adequate protections are in place to prevent such a challenge.

Mayors, Councillors and the Greater London Authority

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

Yes

Please explain the reasons for your view:

- The LGPS should be available to all those who provide local government services.
- Locally elected representatives offer a vital public service and should receive appropriate remuneration and suffer no financial disadvantage for their service
- It will remove a barrier to entry into public service, encourage participation and widen representativeness

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

Yes

Please explain the reasons for your view:

see Q4 above

Principles and Cost

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

Yes

Please explain the reasons for your view:

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

Please provide any comments:

The suggested timescales appear ambitious. Software providers will not have the systems ready for 1 April 2026 given that the regulations are not yet in place. A start date after the 2026 local elections may also be more appropriate given potential turnover of eligible members shortly after the suggested implementation date.

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

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

Yes

Please explain the reasons for your view:

However, more detail should be provided on the criteria for the policy to be applied effectively and consistently.

The consultation states there must be a clear and evidenced value for money (VFM) assessment in favour of consolidation (such as to achieve administrative efficiencies that outweigh the cost of the transfer and actuarial fees). However, no further detail is provided. This could lead to varying interpretations and inconsistent application.

We recommend MHCLG provides further guidance on what should be included in the assessment. We strongly recommend that employer contribution rate should not be included as part of the VFM assessment. It should also provide an appropriate time frame over which the assessment should be measured.

The transfer process will impose costs on all the parties involved – these costs should be included in the assessment and guidance should set out which party is responsible for them. The costs involved will include transaction costs for disposal of assets as well as legal and actuarial costs. In our view, the MAT should be responsible for paying the full cost of the consolidation.

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

Please provide your views:

Yes, ensure that a MAT can only utilise the services of an AA in which it has a geographical connection. As mentioned above, MHCLG should prescribe that the contribution rate should not be included in the VFM assessment.

The ability of Administering Authorities to refer an application to the SoS is an important mechanism for flagging cases where decisions have been made solely based on 'contribution rate shopping'. When such cases are referred to the SoS we would expect these cases to be declined, which would help to discourage such activity.

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

Yes

Please provide any other criteria and the reasons they should be included:

As well as agreeing to the change, AA's should be asked to agree to a timescale for the transfer to allow for activities to be coordinated.

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

Please provide any comments:

Consideration should be given to:

- how admitted bodies connected to the transferring MAT are dealt with on transfer
- if the New Fair Deal proposals are taken forward, how relevant contractors will be impacted – again, we assume these would also transfer to the new administering authority
- if new academies joining the MAT will automatically be a part of the consolidated fund, or if a new application will need to be made.

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

Yes

Please explain the reasons for your view:

As per the criteria outlined supplemented with clear guidance for MAT's (or other consolidating employers).

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

Academies guidance:

Member and employer guides detailing roles and responsibilities of each party.

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

Please provide any comments:

We would just like to reiterate our concerns about the cash flow impact if consolidation becomes more common place. Decisions should be formally documented by the MAT, receiving and ceding Funds based on guidance issued by MHCLG.

Proposal 2: Process for applications where criteria are not met

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

Yes

Please explain the reasons for your view:

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?

Please provide any comments:

Member and employer guidance including an outline of the process to submit an application, next steps and an indication of timescales.

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

Please provide any comments:

No

Removal of broadly comparable schemes

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

Yes

Please explain the reasons for your view:

We support the principle of outsourced public sector workers having a continued right to membership of the LGPS after being transferred from their employer.

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.

No

Please provide details:

Removal of admission body option for future local government outsourcings

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

No

Please explain the reasons for your view:

We recognise that compulsory use of deemed employer status has certain advantages, described in the consultation. For example, that members have automatic continuity in their membership of the LGPS and that the system automatically means contractors have predictable contribution rates and there are no exit payment/ credit issues at cessation. However, we believe it also adds significant new complexity in multiple areas and it will be a major implementation challenge at a time of significant change in the LGPS.

The proposals appear to be aimed at solving an issue which has largely been dealt with by LGPS Funds through increased use of pass-through arrangements for outsourcing contracts. The current arrangements have the advantage of clear documentation in the admission agreement specifying roles and responsibilities of all parties involved and capturing all of the information required to administer the pension arrangements.

Fair Deal employers

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

Yes

Please explain the reasons for your view:

Protected transferees

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

Yes

Please explain the reasons for your view:

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

Yes

Please explain the reasons for your view:

Responsibilities for relevant contractors

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

Yes

Please explain the reasons for your view:

We agree with the overall approach i.e. that the contractor should honour all and any previous pensions agreements and apply the scheme rules as determined by the LGPS and ensure that pensions are unaffected by any outsourcing. In relation to the proposal that the Fair Deal employer takes decisions on the contribution bandings to be applied to members by default, we believe that this will be over-complex in practice and that it may be preferable for the relevant contractor to have this responsibility by default (with the ability for the Fair Deal employer to take it on by agreement).

Continuity of responsibilities across contractors

Question 25 – 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.

Yes

Please explain the reasons for your view:

It is the simplest solution. It gives the greatest protection and requires the least navigation of potential new providers and revisiting of earlier decisions, making life easier for scheme members.

Exceptional arrangements – continuation of broadly comparable schemes

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

Yes

Please explain the reasons for your view:

Whilst flexibility may be valuable to avoid genuine situations where there are exceptional circumstances meaning a broadly comparable scheme should continue to be used, we agree with the government's strong preference for staff to be transferred back to the LGPS wherever possible.

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

Please provide your views:

No view.

Transitional arrangements – inward transfers from broadly comparable schemes

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

Yes

Please explain the reasons for your view:

This gives the greatest protection and honours all previous service.

Early re-negotiation of contracts

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

Yes

Please explain the reasons for your view:

Optional expansion of New Fair Deal beyond originally outsourced workers

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

Yes

Please explain the reasons for your view:

Implementation of New Fair Deal proposals

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

Yes

Please explain the reasons for your view:

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.

Not Applicable

Please explain the reasons for your view:

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?

Yes

Please explain the reasons for your view:

To ensure consistency of implementation.

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

Please provide any comments:

The information which would normally be included in an admission agreement such as members involved, whether the admission is open or closed, agreed responsibilities between parties and details of pass through arrangements.

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

Please provide any comments:

They would give members continued access to the LGPS after their employment is transferred out, lessen the detrimental impact of poor employers and give greater protection to employees.

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

Yes

Please explain the reasons for your view:

The LGPS is a model scheme, well run and financially viable that provides a valuable benefit to a low paid workforce, and it enhances the employers 'recruitment and retention ability.

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

Yes

Please explain the reasons for your view:

Chapter 5 - Public Sector Equality Duty

Q38 – Do you consider that there are any particular groups with protected characteristics who would either benefit or be disadvantaged by any of the proposals? If so, please provide relevant data or evidence.

I am unsure

Please explain the reasons for your view:

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

No