

Fairness & Access Consultation

Response from: Westmorland & Furness Council as the Administering Authority of Cumbria Pension Fund

Closing Date: 7 August 2025

Chapter 1 – Survivor Pensions and Death Grants

Survivor pension entitlement equalisation:
<p>Q1 – Do you agree with the government’s proposed amendment of survivor benefits rules?</p> <p>Response: Yes, Cumbria Pension Fund considers it appropriate to calculate survivor pensions in a consistent way regardless of the sex or sexual orientation of the member or survivor. Similarly, the Fund considers that there should not be inconsistency of calculating survivor pensions between couples that are married, in a civil partnership or are a co-habiting couple.</p>
<p>Q2 – Do you have any comments on the intended approach to equalising survivor benefits?</p> <p>Response: Cumbria Pension Fund supports the intended approach to equalising survivor benefits subject to an appropriate timeline being published in relation to the resolution of historic cases as detailed in response to Q3.</p>
<p>Q3 – Do you have any comments on the administrative impact, particularly in identifying cases where calculations of past benefits would need to be revisited?</p> <p>Response: The proposal is for this change to be backdated (the exact date depends on the type of relationship and can cover deaths as far back as 5 December 2005). This will require administrative reviews of all deaths since that date to confirm whether a survivor of the relevant type exists and potentially recalculate their benefits to pay the higher entitlement. While this is welcomed for removing discrimination, the additional administration burden this introduces should not be underestimated particularly given the other challenges currently facing Administering Authorities, such as implementing the McCloud remedy and the introduction of National Pensions Dashboards.</p> <p>Tracing any potential beneficiaries in these cases will be difficult. Cumbria Pension Fund recognises that relatives may be distressed by</p>

being contacted by the Fund potentially many years after the scheme member's death for what could be no or a very low receivable benefit.

Guidance is required for Administering Authorities which allows a reasonable timescale for undertaking this exercise and provides advice on what to do if the survivor has passed away or cannot be traced, recognising that the need to trace potential beneficiaries will be time consuming. In addition, tracing the next of kin to make the payment will add complexities and timeframes should the beneficiary need to obtain probate for the deceased. This guidance will also need to cover whether or not interest is due on the arrears of pension, and at what rate.

Q4 – Do you have any further comments on the proposed changes?

Response: The proposed changes will require a significant amount of administrative work in tracing and identifying beneficiaries. Guidance should be provided for Administering Authorities as to what is deemed appropriate in taking reasonable steps to trace these beneficiaries so as there is consistency across the LGPS.

Furthermore, it is recognised that the administrative and resolution cost of the equalisation of survivor pension entitlements will ultimately fall onto scheme employers in addition to the cost of other recent amendments to LGPS Regulations e.g. McCloud remedy.

Cohabitee survivor pensions:

Q5 – Do you agree with the government's proposals to formalise the removal of the nomination requirement?

Response: Yes.

Q6 - Do you have any comments on the government's proposals to formalise the removal of the nomination requirement?

Response: The removal of this requirement will ensure that the regulations are consistent with common practice.

Q7 – Do you have any comments on the proposed approach to backdating?

Response: It may be difficult for a survivor to provide the required proof that they were financially dependent on the member after a period of at least 11 years, or that the member and the survivor were financially interdependent. It would be helpful for guidance to be provided as to what proof should be accepted where documentation is not available due to the historic nature of such claims.

It is likely that all cases will need to be reviewed on a case by case basis, and so it is essential that any timeframes for completing this work are reasonable given the work involved.

Further consideration on the administrative impact of these proposals are detailed in our response to Q48-50.
Death Grants:
<p>Q8 – Do you agree with the proposed amendments to death grants?</p> <p>Response: Yes</p>
<p>Q9 - Do you have any comments on the government's proposals to remove the age 75 cut-off from the LGPS Regulations?</p> <p>Response: Cumbria Pension Fund welcomes these proposals subject to concerns associated with the proposed approach to backdating as referred in Q10. It will ensure that there can be no claims for unlawful age discrimination regarding these payments. It will also make administering the payment of death grants more streamlined going forward as there will be a death grant payable for any pensioner member who retired less than 10 years prior to their death. This will give fairness to those scheme members who start to draw their pension after the age of 65. There are however issues with the backdating as detailed in our response to Q10.</p>
<p>Q10 – Do you have any comments on the proposed approach to backdating?</p> <p>Response: The significant administrative impact of having to revisit all deaths of members over age 75 since 1 April 2014 to see if a death grant is now payable should not be underestimated. In addition, tracing potential beneficiaries to make the payment will be time consuming with added complexities and timeframes should the beneficiary need to obtain probate for the deceased.</p> <p>As it is not possible to discriminate against a deceased person, it would be administratively easier and more transparent to either not permit a period of backdating or for this period to be shortened.</p>
<p>Q11 – Do you have any comments on the administrative impact, particularly in identifying historic cases where death grants that were not paid would now be paid?</p> <p>Response: As detailed in our response to Q10, the administrative impact of having to revisit all deaths of members over age 75 since 1 April 2014 to see if a death grant is now payable should not be underestimated. In addition, tracing the next of kin to make the payment will be time consuming with added complexities and timeframes should the next of kin need to obtain probate for the deceased.</p>
Death grants (personal representative)
<p>Q12 – Do you agree with the proposal to remove the two-year limit?</p> <p>Response: Yes.</p>

Q13 – Do you have any comments on the government’s proposal to remove the two-year limit?

Response: The consultation helpfully clarifies the taxation implications for death grants paid after 2 years (which are to be retained).

Cumbria Pension Fund supports the proposal to remove the two-year limit which will ensure that the Fund is not timebound in its endeavours to trace any individual nominated beneficiaries (noting that the scheme member will still incur tax should the payment be made after 2 years). The proposal to remove the two-year limit for deciding the appropriate recipients, broadening eligibility and simplifying administration is welcomed as this will make the ongoing administration easier in future and appear fairer for scheme members and beneficiaries. The application of this proposal to AVCs will improve the process for members with AVCs which can be forgotten and then incur the unauthorised payment charges.

Chapter 2 – Gender Pension Gap

Authorised absences under 31 days

Q14 – Do you agree that the LGPS Regulations should be updated so that any unpaid leave under 31 days is pensionable as a way to address the gender pension gap?

Response: Yes, this approach is supported by Cumbria Pension Fund.

This will help decrease the gender pension gap as women are more likely to have these periods of authorised unpaid leave, as well as being more likely to accrue smaller pensions over their working life.

It is noted that there will be a financial impact on the scheme member as they will have to pay their pension contributions for this period and this may cause financial hardship. This is especially so where a member takes a full month as unpaid leave, so the uncollected pension contributions are then due the following month meaning that a member will effectively pay double contributions for that month.

Q15 – Do you agree the government should use the actual lost pay option when calculating contributions, or do you think APP should be the chosen option? Please explain the reasons for your view.

Response: Cumbria Pension Fund consider that the government should use the actual lost pay option when calculating contributions as this

would appear to be the fairer method for the scheme member.
Additionally, this would be simpler to calculate by employers than APP.

Cost of buying back pension lost in an unpaid break of over 30 days

Q16 – Do you agree with the proposal to align the cost of buying back unpaid leave over 30 days with standard member contribution rates?

Response: Yes, this seems to be a fairer way of buying back unpaid leave as it's a reflection of the amount that the member would have paid if they had worked during the period. Using an APC means that age related factors are used which is a less fair method to the affected scheme member.

Q17 – Do you agree with the proposal to change the time-limit for buying back unpaid leave pension absences from 30 days to 1 year?

Response: Cumbria Pension Fund agrees to the proposal for extending the time-limit for buying back unpaid leave from 30 days to one year as this will improve the affordability to scheme members through the increase to the payment term for these contributions. Again, this option may be of more use to women who are more likely to have these types of break and also tend to earn less due to part-time working.

Q18 – Do you agree with removing the three year limit on employer contributions in Regulation 15(6)?

Response: No, Cumbria Pension Fund does not agree with removing the limit as it is felt that it an employer is unlikely to authorise unpaid leave of more than 3 years.

Pension contributions during child related leave

Q19 – Do you agree with updating the definition of child-related leave to include all periods of additional maternity, adoption and shared parental leave without pay?

Response: Unsure

Cumbria Pension Fund only partially supports this proposal. The proposal to make unpaid additional maternity, adoption, and shared parental leave fully pensionable improves pension access for parents. This is a very welcome change from the scheme members perspective, particularly women, and may facilitate and encourage more male scheme members to take shared parental leave, which could be a significant contributor to the gender pensions gap.

However, the proposal could have a significant financial impact on certain employers, particularly those with a younger female demographic, or schools with already stretched budgets, as it will be employers paying the full cost of making these periods of leave pensionable. More cost

analysis should be considered to understand the impact before implementing this change.
Making gender pension gap reporting mandatory in the LGPS
<p>Q20 – Do you agree that gender pension gap reporting should be mandatory in the LGPS?</p> <p>Response: Yes. Cumbria Pension Fund supports the reporting for the gender pension gap however there should be clear guidance for the consistent reporting of this data.</p>
<p>Q21 – Do you agree that the 2025 valuation (and associated fund annual reports) is preferable?</p> <p>Response: Yes, reporting on the gender pension gap is clearly preferable for inclusion in the 2025 valuation and annual report. However, given the tight timescales involved, it is recommended that Funds and Actuaries use their “best endeavours” to include the information within the 2025 valuation and that this is then then mandated from the 2028 valuation.</p>
<p>Q22 – Do you agree with the threshold of 100 employees for defining which employers must report on their gender pension gap?</p> <p>Response: No. Large employers may only have a small number of employers who are members of the LGPS, e.g. due to TUPE of staff for outsourced activities or where organisations have the majority of their staff in other public sector pension schemes. A better threshold would be those employers with a minimum of 100 employees who are active scheme members in the LGPS.</p> <p>This would be a reasonable compromise between the time taken to undertake this exercise and the significance of the results arising from it. For Cumbria Pension Fund such an approach would relate to information being collated from 21% of our scheme employers whilst covering 96% of our total active scheme membership.</p>
<p>Q23 – Do you agree with the gender pension gap definition being ‘the percentage difference in the pension income for men and women over a typical working life’?</p> <p>Response: Unsure.</p> <p>Without more information and clear definitions of how this will be calculated, it is difficult to agree or disagree with the proposal. However, it would be difficult to include it in the 2025 valuation cycle as much of that work is underway or has been completed, with Actuarial firms working to already tight timetables.</p>

Q24 – Do you agree with the gender pension savings gap being ‘the percentage difference in the pension savings accrued over one year for men and women’?

Response: See the response to Q23

Chapter 3 – Opt-outs

Opt-outs

Q25 – Do you agree that the annual report is the best method of reporting data on those who choose to opt-out of the scheme?

Response: Yes, Cumbria Pension Fund agrees that the annual report is an appropriate method of reporting opt out data. However, it would also be useful to have a national picture of opt out rates and it may be appropriate and more timely for the data to also be reported centrally by MHCLG using the SF3 data collection.

Although the LGPS Scheme Advisory Board (SAB) currently uses the individual fund annual reports to collate a Scheme annual report, it is always at least 12 months out of date by the time it is published.

Annual reports do not have to be published until 1 December following the end of the Scheme year, and it then takes around five months for the data from the individual fund reports to be consolidated into the Scheme annual report. The SF3 data release is typically published between August and October following the end of the Scheme year. If this was also a vehicle for reporting opt out data, the national picture would be available much quicker. This would allow the Government to be more responsive to any significant changes in opt out rates.

Q26 – Do you foresee any issues with administering authorities’ ability to gather data on opt-outs?

Response: Yes. It will be challenging for the Administering Authority to gather the required data from employers and undertake appropriate checks to substantiate the validity of this data.

Q27 – When updating the annual report guidance to reflect opt-out data collection, what information would be most useful to include?

Response: For the information to be meaningful opt-out data should be based on a specific date for data collection and presented by gender and age group.

It would also be helpful to have some standard text for all Funds to include in the Annual Report detailing caveats to the data.

Collection Of additional opt out data

<p>Q28 – Do you agree with the proposal to collect additional data about those opting out of the scheme?</p> <p>Response: No. When a member opts out within the first 3 months of employment, they are deemed not to have been a member of the scheme pension. Therefore, scheme administrators do not and should not record these details as they have no legal reason to hold that information under GDPR. It would be more appropriate for this to be managed nationally with the inclusion of the relevant employer / pension fund as a separate field.</p>
<p>Q29 – Are you an employer, part of an administering authority or member of a pensions board?</p> <p>Response: Administering Authority</p>
<p>Q30 – Do you have any comments on the collection of additional information?</p> <p>Response: No.</p>

Chapter 4 – Forfeiture

Forfeiture:
<p>Q31 – Do you agree that the government should amend regulations 91 and 93 of the 2013 Regulations to remove the requirement that the member must have left employment because of the offence in order for an LGPS employer to be able to make an application for a forfeiture certificate or to recover against a monetary obligation?</p> <p>Response: Yes. These changes should ensure that the process of applying for forfeiture is more straightforward for both employers and Administering Authorities in future and allow the employer to recoup some of the losses incurred.</p>
Removing the time limit to make a forfeiture application
<p>Q32 – Do you agree that the three month time limit for an LGPS employer to make an application for a forfeiture certificate should be removed?</p> <p>Response: Yes. There should be no time limit for employers to make an application for a forfeiture certificate.</p>
Revoking regulation 92
<p>Q33 – Do you agree that Regulation 92 of the 2013 Regulations should be revoked?</p> <p>Response: Yes.</p>
Forfeiture in relation to benefits accrued in earlier schemes

<p>Q34 – Do you agree that in order to give full effect to the proposed amendments equivalent modifications should apply to earlier schemes?</p> <p>Response: Yes. To avoid ambiguity or potential loopholes, equivalent modifications should be applicable to both current and earlier schemes.</p>
Forfeiture Guidance
<p>Q35 – Do you agree that there should be forfeiture guidance to assist employers in making applications?</p> <p>Response: Yes. Forfeiture guidance for employers and Administering Authorities would be welcomed. This should recognise that there are already powers through the Proceeds of Crime Act to recover losses through an offender's pension (with the agreement of the scheme member).</p>

Chapter 5 – McCloud Remedy

Divorce Credits
<p>Q36 – Do you agree with the government's proposal for pension debits and credits?</p> <p>Response: Yes. Cumbria Pension Fund welcomes these technical changes to provide clarity to Administering Authorities in ensuring that the remedy can be correctly implemented for members and beneficiaries in these categories.</p>
Death grants on 30 September 2023
<p>Q37 – Do you agree with the government's proposal to cover deaths on 30 September 2023?</p> <p>Response: Yes. Cumbria Pension Fund welcomes these technical changes to provide clarity to Administering Authorities in ensuring that the remedy can be correctly implemented for members and beneficiaries in these categories.</p>
Interest on Club transfers
<p>Q38 – Do you agree with the government's proposal to clarify if interest applies on Club Transfers?</p> <p>Response: Yes. Cumbria Pension Fund welcomes these technical changes to provide clarity to Administering Authorities in ensuring that the remedy can be correctly implemented for members and beneficiaries in these categories.</p>
Interest on Part 4 tax losses

Q39 – Do you agree with the government’s proposal to include part 4 tax losses in the 2023 regulations?

Response: Yes. Cumbria Pension Fund welcomes these technical changes to provide clarity to Administering Authorities in ensuring that the remedy can be correctly implemented for members and beneficiaries in these categories.

Chapter 6 – Other Regulation Changes

Transfers from other public service schemes for members over 65 years old

Q40 – Do you agree with the government’s proposal for transfers from other public service schemes for members over 65 years old?

Response: Yes. Cumbria Pension Fund welcomes these technical changes to provide clarity to Administering Authorities in ensuring that the remedy can be correctly implemented for members and beneficiaries in these categories.

Other Regulation Changes

Q41 – Do you agree with the proposal to omit Regulation 50 and the equivalents to it (to the extent that they have been preserved) in the 1997 and 2008 Regulations?

Response: Yes. This is now irrelevant with the removal of the lifetime allowance.

Q42 – Do you agree with the proposal to withdraw the actuarial guidance linked to Regulation 50?

Response: Yes. This is now irrelevant with the removal of the lifetime allowance.

Q43 – Do you agree with the proposal to amend the definition of BCE in the 2013 Regulations?

Response: Yes

Q44 – Do you agree with the proposed approach to PCELSs?

Response: Yes.

Q45 – Do you agree with the proposed approach to issue updated actuarial guidance on the treatment of PCELSs?

Response: Yes.

Q46 – Do you agree with the proposed amendments to the Regulations?

<p>Response: Cumbria Pension Fund considers that legal firms associated with the LGPS are best placed to respond to proposed amendments to the Regulations.</p>
<p>Q47 – Do you have any comments on the proposals in this chapter?</p> <p>Response: No.</p>

Chapter 7 - Administrative impact of proposals

<p>Administrative impact of proposals</p>
<p>Q48 – Do you have any comments about the impact the combined proposals in this document will have on administration?</p> <p>The combined proposals are likely to result in significant additional workloads for Administering Authorities, particularly in the short to medium term. Additionally, software suppliers and payroll providers will have additional workload and pressures in changing software and systems to support the requirements of the proposals.</p> <p>Administering Authorities and their software providers are already under immense pressure with a number of projects such as the McCloud remedy (which affects all Public Service Pension Schemes) and preparation for and connection to pension dashboards. For those Administering Authorities shortly to go through LGR, there will also be a further significant burden on the administration function of the Pension Fund. This is in a climate where experienced staff are hard to recruit and retain and less experienced staff take a long time to train to even backfill posts left vacant by more experienced staff undertaking the projects already mentioned.</p> <p>The proposals on amending survivor benefit rules will undoubtedly result in a large administrative burden as some of the deaths that will need revisiting are 20 years old, and the time taken to locate family members (even if that were possible) could be substantial.</p> <p>The consultation introduces multiple retrospective administration exercises, each one requiring time consuming administrative activities. Consequently, implementation of the proposals needs to be staged and not introduced all at once. The magnitude of these changes should be carefully considered from a staffing/resource perspective.</p>
<p>Q49 – Are there any areas where you believe the proposals are significantly more complex and would benefit from a later implementation date?</p> <p>Response: The Government should give specific consideration to setting a later implementation date to those areas within this consultation where Administering Authorities will be required to undertake tracing</p>

work to find potential beneficiaries – in some instances for very historic cases. This specifically includes retrospective survivor benefits, death grants and cohabitee survivor pensions.
<p>Q50 – Do you have any comments on the proposed approach to cost?</p> <p>Response: It is noted that the additional costs of the wide ranging amendments from this consultation will fall to the respective LGPS Funds and ultimately to the employers and therefore, in many cases, to the tax payer. These costs are on top of previous additional costs and administrative burden associated with the McCloud remedy, Pension Dashboard readiness etc.</p>

Chapter 8 - Public Sector Equality Duty

Public Sector Equality Duty:
<p>Q51 – Do you consider that there are any particular groups with protected characteristics who would either benefit or be disadvantaged by any of the proposals? If so, please provide relevant data or evidence.</p> <p>Response: This consultation is intended to provide fairness across the LGPS for specific protected groups, e.g. those scheme members in both opposite and same-sex relationships. The proposals within the consultation will rebalance the LGPS to provide equity to all scheme members and is welcomed by Cumbria Pension Fund.</p>
<p>Q52 – Do you agree to be contacted regarding your response if further engagement is needed?</p> <p>Response: Yes. Cumbria Pension Fund is happy to be contacted regarding our response to this consultation. Please contact us at pensions@cumbria.gov.uk</p>