

# LGPS CURRENT ISSUES

February 2023



welcome to brighter

# In this edition

Whilst markets appear to have stabled, relative to the volatility seen in 2022, a number of regulatory developments are expected in the coming months. Together with work to finalise the actuarial valuations in England and Wales, preparatory work for the valuations in Scotland, and ongoing work in relation to McCloud, Climate Risk, Pension Dashboards etc. there is still plenty to keep LGPS Funds occupied as we approach the end of the financial year.

In this edition, alongside celebrating the history of the Oscars which take place in March, we provide brief updates on recent developments and commentary on what to expect over the next months including commentary on Cyber Risk and how we can help you in this area.



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# Investment Update

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## LDI Guidance

Following the market turmoil in the autumn of 2022, at the end of November 2022, a number of regulators issued a package of guidance and statements for liability driven investment (LDI) managers and investors to address the instability in the gilt market after the September “mini budget”. LGPS Funds with leveraged LDI portfolios should ensure they have reviewed the guidance with their investment adviser and are taking appropriate steps to meet regulatory expectations.



The initial [statement](#) was from National Competent Authorities (NCAs), which regulate LDI funds in the country in which their provider is based. This was followed by a [statement](#) from the Financial Conduct Authority (FCA) directed at LDI asset managers and [guidance](#) from the Pensions Regulator (TPR) for trustees of occupational DB schemes who have leveraged LDI investment allocations.

The overarching theme from all the regulators is that an appropriate yield buffer is deemed to be 3-4% and this needs to be accompanied by robust governance to withstand stressed market conditions.

The FCA plans to maintain a supervisory focus on market participants to ensure vulnerabilities identified are addressed and intends to publish a further statement on good practice towards the end of the first quarter of 2023.

**For LGPS Funds with LDI portfolios, please contact your usual Mercer consultant if you want to discuss what changes you may need to implement in relation to the above.**

## Climate Risk Lawsuit - Shell

On 9 February 2023, Client Earth launched the [first ever derivative action](#) in the High Court in England and Wales against the board of directors of Shell for failing to manage the material and foreseeable risks posed to the company by climate change. The claim is supported by a number of institutional investors, including the London CIV, who have sent a [letter of support](#) to Client Earth. This support follows a letter issued by the CIV to Shell in October 2022 for which no response was received.



The record for the shortest acceptance speech is shared by renowned director Alfred Hitchcock and William Holden. They both simply said, "Thank you."

## “Edinburgh Reforms”

On 9 December 2022, the Chancellor [announced](#) a set of reforms to drive growth and competitiveness in the financial services sector, collectively known as the “**Edinburgh Reforms**”. The package, consisting of 30 measures, are divided into four categories – a competitive marketplace promoting effective use of capital, sustainable finance, technology and innovation, and consumers and business.

The statement also confirmed that the Government would be consulting on asset pooling in “early 2023” (as previously expected) and also consulting on a requirement for LGPS Funds to consider investment opportunities in illiquid assets such as “venture and growth capital”.

Further details in relation to these consultations and what the requirements on LGPS Funds will be, are now awaited.



Walt Disney has the most Oscar wins of all time. In all, he has won 22 competitive Oscars and 3 honorary ones, out of a total of 59 nominations.

## Mercer’s LGPS Sustainable Investment Conference (8 March)

Join our Mercer experts and guest speakers at our Sustainable Investment Conference on **Wednesday 8 March 2023** at our London Office, specifically for those responsible for LGPS Funds and Pools, as we explore TCFD, Levelling Up, and biodiversity and natural capital. The agenda is now available and can be viewed [here](#).

You can register your place using the link here.

[Secure your place](#)



# Funding Matters

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## 2022 and 2023 Actuarial Valuations

Across England and Wales, the 2022 actuarial valuations are entering into the final stages where Actuaries will be preparing their final reports to sign off employer contribution outcomes with any changes taking effect from 1 April 2023. Funds will need to ensure their Funding Strategy Statements are approved by Committees and finalised and consider their approach for monitoring and review of funding positions over the inter-valuation period.



The only sequel to have won Best Picture is *The Godfather: Part II* (1974).

In Scotland, preparatory work will have already begun in relation to the 31 March 2023 actuarial valuations. Despite market volatility, Funds will generally be expected to be in a healthy position relative to the previous valuation in 2020 and as for England and Wales, balancing risk vs as employer affordability will again be a key driver when determining valuation outcomes as employer finances in many cases will be even more stretched over the next few years.

## Climate Change Scenario Analysis

Whilst a lot of focus to date has been on how climate change may impact Fund's assets, as part of the 31 March 2022 valuation reporting in England and Wales, there is a requirement for Actuaries to identify the impact of transition risk (shorter term) and physical risks (longer term) on potential funding outcomes. The outcomes of any scenario analysis undertaken and supporting comments will be included in the final valuation report. Funds will also be required to include a statement in their Funding Strategy Statement.

The Government Actuary's Department's (GAD's) core requirements are that Funds will at least model the progression of the funding level over 20 years on **two climate change scenarios** – one of which will be "Paris aligned" and the other consistent a higher temperature outcome.



The record for total Oscar wins in one year is 11. Three films have done it: *Ben-Hur* (1959), *Titanic* (1997), and *The Lord of the Rings: The Return of the King* (2003).

However we are finding Funds are generally looking to undertake a broader analysis so as to dovetail with the work done (or due) in relation to their investment strategy. Such analyses will look at impacts over the short, medium and longer term (e.g. 5, 20 and 40 years) in terms of the outcomes and also the effects of alternative investment strategies (in particular any change to their sustainable investments) in order to provide a form of measurement of the potential impact.

*Mercer's climate scenarios have been developed in collaboration with Ortec Finance and price in shocks when the markets account for future impacts (both physical and transition impacts). There is also a granular insight into sector and regional impacts for equities, corporate bond and high yield allocations, with fixed income analysis considering the impact of changes in yield, spread, transitions and defaults.*



## SAB 2022 Scheme Valuation Report and Section 13

As the 2022 valuations are completed, Funds and Actuaries will be required to collate information to provide to the Scheme Advisory Board (SAB) for preparing the Board's 2022 Scheme Valuation Report and also to GAD for the purpose of the Section 13 assessment that they will undertake.



The oldest Oscar winner to date was Anthony Hopkins, who won Best Actor in a Leading Role for *The Father* (2020) at 83 years old.

# Cyber Risk

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Pension schemes, including LGPS Funds, are vulnerable to cyber-attacks due to the large amount of assets and personal data they hold, as well as frequent financial transactions between stakeholders. Because of this, cyber risk for pension schemes is a topical and rapidly evolving area and is one of the growing threats to the security of members' benefits

TPR has [guidance](#) that sets expectations for trustees and administering authorities to consider how well Funds are protected against cyber risk. This will be incorporated as a module in the forthcoming single code of practice.

As this is a relatively new and developing area for pension schemes, it is important that administering authorities understand where to start the conversation and what actions they need to take.



Having cyber risk on the agenda for Committee/Board meetings, and discussing with providers (e.g. third party administrators / advisers etc.) what controls are currently in place to protect the fund, is a good starting point. TPR's guidance contains questions for carrying out cyber risk assessments, which are summarised below and can be used as initial discussion points:

- Is the cyber risk on the risk register and is it regularly reviewed
- Do the scheme managers i.e. officers have access to the right skills and expertise to understand and manage the risk?
- Are sufficient controls in place to minimise the risk of a cyber-incident occurring?
- Is there a response plan in place to deal with any incidents which occur and help swiftly and safely resume operations?
- Do the suppliers have business continuity plans in place?
- Are the controls, processes and response plans regularly tested and reviewed?
- How are the scheme managers keeping up to date with information and guidance on threats?

## How Mercer can help

We have been working with cyber experts at our sister company Marsh to provide pension funds with solutions in the form of training sessions, reviewing cyber policies and risk registers as well as developing incident response plans.

**Please get in touch with your usual Mercer consultant to discuss your scheme's specific needs to manage cyber risk and we'd be happy to explore how we can help you in this area.**



Source: <https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/administration-detailed-guidance/cyber-security-principles>



The Matrix received four Oscar nominations (1999) and won in all four awards in four different categories, which included Film Editing, Sound Mixing, Sound Editing and Visual Effects.



No sci-fi film has ever won a Best Picture. Not *Star Wars* (1977), *E.T* (1982) or even *Avatar* (2009), which was the highest grossing film of all time when it lost the award.



# Regulatory round up

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## CARE Revaluation Date Consultation

On 10 February 2023, a [consultation](#) was published by the Department for Levelling Up, Housing and Communities (DLUHC) to consult on changes to the LGPS Regulations 2013 to give effect to the change in the annual revaluation date from 1 April to 6 April.



Meryl Streep is the record holder for the most total Academy Award acting nominations with 21. She's won three times.

The proposals seek to realign the annual revaluation of CARE benefits with the revaluation applied when determining a members Pension Input Amount (the value of growth in a member's benefits during a Pension Input Period). For 2022/23 in particular, the current disconnect between the two revaluations would lead to a greater number of members potentially being subject to an annual allowance tax charge.

From a member perspective, the change would reduce the potential for tax charges to be incurred and so will be seen as a positive change. The proposals also seek to mitigate the impact on those members where "member events" e.g. leaving/retiring etc. occur during the 1 to 5 April period.

There will also be administrative advantages to the change given the number of members who will need to be provided with a Pension Savings Statement will be lower than under the current approach and the number of queries that subsequently emerge will also reduce.

Given the timescales involved for any changes to be implemented, this consultation will only run for 2 weeks to 24 February 2023.

## SAB Cost Management Process Consultation

On 30 January 2023, DLUHC published a [consultation](#) setting out proposed updates to the SAB cost management process for the LGPS. This follows from GADs report into the HMT cost management process and the resulting policy and legislative changes that followed. The proposed changes that are being consulted on are:



- A requirement to undertake the LGPS Scheme Valuation on a 4 yearly cycle rather than 3, thus bringing it into line with other public service schemes. (N.B. This doesn't change the requirement to undertake individual LGPS Fund valuations on a triennial basis.)
- Incorporating more flexibility if the SAB decide to make recommendation on costs.
- Ensuring the SAB is consulted on the technical accuracy of any changes in regulations that may be needed to incorporate the new "economic check" mechanism into the updated HMT cost management process, prior to implementation.

The consultation ends on **24 March 2023**.

## Climate Change Risk Consultation

The long awaited [consultation](#) issued by the UK government on 1 September 2022 in respect of their proposals on how LGPS Funds will be expected to report on climate change risk and their governance approach to it, closed on 24 November 2022. A copy of the SAB response that was submitted on 18 November 2022 can be found [here](#). A response to the consultation by the government is now awaited.



Since 1960, three black and white films have won Best Picture: The Apartment (1960), Schindler's List (1993), and The Artist (2011).

## McCloud Remedy (Various)

**Tax:** On **24 November 2022** HMRC launched a [consultation](#) on how pension tax will apply to members protected by the McCloud remedy in order to seek views on draft legislation – **The Public Services Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023** – which would become effective from 6 April 2023 (with some provisions having retrospective effect).

Not all provisions within the draft legislation cover the LGPS given the legislation covers all public service pension schemes and the LGPS remedy is very different. The draft legislation (relevant to the LGPS) includes annual allowance treatment, individual/fixed protection for lifetime allowance considerations, and comment in a number of areas in relation to benefit

On **6 February 2023** the Regulations were [laid](#) and become effective from 6 April 2023.

**Powers:** On **14 December 2022** HMT made the [Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#) which came into effect on 19 December 2022. The Directions set out how certain powers in the Public Service Pensions and Judicial Offices Act 2022 must be exercised e.g. linked to the payment of compensation/interest etc.

**The making of the Directions enables relevant departments to start consulting on regulations.**

**Teachers:** It has been confirmed that the implementation of the McCloud remedy in the Teachers Pension Scheme (TPS) will have implications for the LGPS given that some teachers will be retrospectively eligible for LGPS membership during the period 1 April 2015 to 31 March 2022. Eligibility would be for those teachers who had a part-time employment, in addition to a full-time employment, given the part-time role would not have been pensionable in the TPS legacy scheme.



In such cases the member would have been enrolled into the LGPS. An administrative process, for dealing such cases, will be needed and the LGA will work together with the DfE and DLUHC on this matter. The DfE is also to begin contacting relevant schools to confirm employment status of members during the remedy period.

**Judicial Review:** On 31 January 2023, the Judicial Review (brought by the British Medical Association and the Fire Brigades Union) over the government proposed method of paying for costs incurred by the McCloud Judgment began. The outcomes of this review may have implications for the LGPS and the outcomes of the 2016 cost management process that were announced in 2022.

### Further Education Bodies

On 29 November 2022, following the review being undertaken by the ONS, the ONS has reclassified colleges and their subsidiaries into the central government sector. The response to the consultation can be found [here](#).



The youngest Oscar winner ever was Tatum O'Neal, who won Best Supporting Actress for Paper Moon (1973) at just 10 years old.

Although the consultation response confirms the reclassification it confirms no impact on the LGPS and further details are still awaited in relation to additional covenant assurances/guarantees for Further Education (FE) employers. FE employers will also now be removed from the separate consultation on the eligibility of FE and Higher Education employers (in particular Post 1992 Universities) in the LGPS and whether the LGPS needs to be offered to support staff.

### Other regulatory news in brief

**TPR's New Single Code of Practice** – The new Code is now expected to be published in its final form in the next few months. It will consolidate and re-write a number of existing codes, formalise the requirement for an Effective System of Governance, and (for pension schemes with 100 or more members) introduce the new Own Risk Assessment. New actuarial, internal audit and risk functions will also be required, and cyber risk, stewardship and climate change will be included in a code of practice for the first time.



# And in other news...

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## Ministerial Appointment

In November 2022, Lee Rowley MP replaced Paul Scully MP as the Minister of State for Local Government and Building Safety. The Scheme Advisory Board wrote to the Minister to welcome him to the role. The letter can be found [here](#).



**LGPS Frameworks** – The National LGPS Frameworks have written to administering authorities to ask for volunteers to act as founders for two new frameworks that will launch later this year – AVCs and Integrated Service Providers (ISP)/Member Data Services.

## Review of TPR

DWP have [announced](#) the appointment of Mary Starks to lead a review of The Pensions Regulator (with the report expected to be delivered in May 2023).

## CMI Investigation

The Continuous Mortality Investigation (CMI) has launched a consultation on how it should include mortality data for 2022 in the CMI\_2022 version of its mortality projections model, which is used to estimate improvements in life expectancies of pension scheme members.

According to the consultation, adopting CMI\_2022 will reduce projected life expectancies (and thus liabilities potentially) compared to earlier versions of the model. The impact will vary based on scheme characteristics and the final approach adopted by the CMI. The CMI aims to publish the model in June 2023.



Peter Finch (Network) and Heath Ledger (The Dark Knight) are the only actors to be awarded an Oscar posthumously.

## Pensions Dashboards Update

There have been a number of updates recently in the Pension Dashboards programme. Further information can be found on [the PDP website](#).

In summary:

At the end of November 2022 [The Pensions Dashboard Regulations 2022](#) were made and came into force from 12 December 2022.

In terms of guidance/consultations, the following have been released.

- [Early Connection Guidance](#)
- [Deferred Connection Guidance](#)
- [TPR Consultation on Compliance](#)
- [FCA Consultation on Regulatory Framework for dashboard operators](#).
- [PDP Consultation on Dashboard Standards](#)

Given the pace of developments relating to Pensions Dashboards, the LGA is looking to pull together a guide to assist LGPS administering authorities with the actions they need to take to ensure compliance.

# Meet the team

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**Name:** Ciaran O'Donnell

**Role:** Associate Valuation Services Team Leader

**Joined Mercer:** November 2005

**Place of Birth:** Belfast

**Favourite film:** I love all of Chris Nolan's films, but I'll have to go for Indiana Jones and the Last Crusade. Adventure, plenty of wise-cracks and that John Williams theme. It did win an Oscar also in 1989 – Best Sound Editing!

**Favourite actor:** Harrison Ford. Played Indy, Han Solo and Deckard so that's good enough for me.

**If you were an actor, what type of film would like to feature in:** Sci-Fi

**Name:** Lucy Tusa

**Role:** Senior Investment Consultant

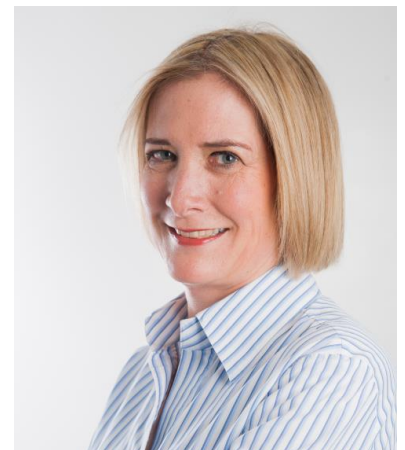
**Joined Mercer:** April 2007

**Place of Birth:** Gloucester, UK

**Favourite film:** Rocketman, various awards but not no Oscar unfortunately.

**Favourite actor:** Alfred Enoch – expect great things from him!

**If you were an actor, what type of film would like to feature in:** Cartoon



**Name:** Laura Cain

**Role:** Senior Investment Analyst

**Joined Mercer:** 2017

**Place of Birth:** Manchester

**Favourite film:** Would have to go with Notting Hill if we're going for a classic feel-good film. No Oscar but most popular film at the 2000 BAFTAs!

**Favourite actor:** Hugh Grant (see above, second entry would have been Love Actually...)

**If you were an actor, what type of film would like to feature in:** Definitely RomCom. I'm sure you're sensing a theme here.



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