Local Government Pension Scheme - Briefing Note for Employers

Topic: LGPS 2014 - How are you getting on?

Introduction

It's now a number of months since the LGPS 2014 reforms took effect in England & Wales. These not only reformed the basis for the calculation of members' pensions, but also made changes to the information that your organisation as a Scheme employer has to hold and provide to your Pension Fund administering authority.

Whilst the career average benefits structure is now in place, the Scheme reforms are an ongoing process, and work will be continuing in the coming months to hone the Scheme and ensure that the LGPS in England & Wales is working as well as it can for its members & participating employers. We are expecting that in the near future the Government will commence a consultation on draft amending regulations which will seek to refine some aspects of the LGPS 2014 reforms. Your Pension Fund administering authority will keep you up to date with anything you need to know in respect of these as and when they know more.

Below are brief descriptions of key aspects of LGPS 2014 which impact on the member information you need to hold and provide to your Pension Fund administering authority. **With the Scheme reforms now settling in, you may wish to check that as an employer your practices are consistent with the requirements set out below.**

If you have any questions or queries on any of these areas, please contact your Pension Fund administering authority.

1. Employees' contribution rates

Summary: Up to 31st March 2014, the contribution rate payable by a member was determined by reference to their full time equivalent pay. From 1st April 2014, that changed. **A scheme member's contribution rate is now determined by reference to their actual pensionable pay.**

For example, a member working part time hours of 50% with a full time equivalent pay of £25,000 per annum but actual pay per annum of £12,500 would have a contribution rate based on their actual pensionable pay of £12,500. For the 2014/15 Scheme year, this would be 5.5% (if the member is in the main section of the scheme).

The table of 2014/15 employee contribution rates can be found in section 5.1 of the Payroll Guide. More information on the assessment of employee contribution rates and the circumstances under which a member's contribution rate could be changed in the course of the Scheme year can be found in sections 2A, 2B, 4 and 5 of the HR Guide.

Key points: From April 2014, a member's contribution rate is determined by reference to their actual pensionable pay, and not their full time equivalent pay. Remember that each job is assessed separately when determining the contribution rate.

2. Calculation of pensionable pay

Summary: Under the previous Scheme structure (up to the end of March 2014), if a Scheme member received pay for non-contractual overtime, that pay would be non-pensionable - i.e. contributions were not deducted from non-contractual overtime and the pay received for that overtime did not count towards the member's pensionable pay used to work out their pension benefits.

From April 2014 that's changed and **non-contractual overtime** (and hours worked by a part-time employee in excess of their contractual hours) **is now pensionable**. It therefore needs to be treated like any other part of a member's pay received. Contributions should be deducted from non-contractual overtime and the pay received will need to be included in the pensionable pay cumulative provided to your Pension Fund administering authority for that member.

In addition, since 1st April 2014, **payments in consideration of loss of future pensionable payments are no longer pensionable** and your organisation needs to ensure that contributions aren't being deducted from such elements. So, for example, if an employer changes an employee’s contract to remove contractual overtime and gives a lump sum payment in consideration for the loss of future pensionable payments, that lump sum would be non-pensionable.

If you have any members that are reservists and take **reserve forces service leave**, there are some changes to the deduction of contributions for these members whilst they are on reserve forces service leave. Details can be found in sections 6 and 11 of the HR Guide.

In respect of the transition of the Scheme to its career average benefit structure, in 2014/15 and the years to come some members may receive **pensionable pay which relates to a period before 1st April 2014**. Such pensionable pay should have employee contributions deducted at the contribution rate applicable under the 2008 Scheme and using the 2008 Scheme definition of pensionable pay (not including non-contractual overtime). Such pay elements must **not** be included in the pensionable pay cumulative in the Scheme year in which the payment is made but, if paid in the member's final year of Scheme membership, should be taken account of when calculating that member's final pay in respect of any pre-2014 benefit entitlement that member has. It is not specified in Scheme regulations as to whether the employer contribution rate payable on such pensionable pay should be the current employer contribution rate or the employer contribution rate payable under the 2008 Scheme, so your discretion (with the agreement of your Pension Fund administering authority) is allowed in this respect.

More information on pensionable pay under LGPS 2014 can be found in section 4.1 of the Payroll Guide.

Key points: Non-contractual overtime (and hours worked by a part-time employee in excess of their contractual hours) is now a pensionable element. Contributions should be deducted on any non-contractual overtime a member receives and hours worked by a part-time employee in excess of their contractual hours. Any such pay should be included in the pensionable pay cumulative provided to your Pension Fund administering authority.

Pensionable pay paid after 31st March 2014 which relates to a period before 1st April 2014 should have employee contributions deducted at the member's contribution rate payable under the 2008 Scheme and on the 2008 Scheme definition of pensionable pay and must **not** be included in the pensionable pay cumulative in the Scheme year in which the payment is made.

3. Assumed Pensionable Pay (APP)

Summary: APP is a new term introduced by the LGPS Regulations 2013. **APP is the pensionable pay that has to be calculated and added to a member's cumulative pensionable pay during certain types of leave of absence** i.e. when a member:

a) is on reduced contractual pay or no pay due to sickness or injury;
b) is on ordinary maternity, paternity or adoption leave or paid additional maternity, paternity or adoption leave; or
c) is absent on reserve forces service leave.

APP is calculated as an annual rate then applied to the relevant period as a proportion of that rate.

The annual rate of APP for a monthly paid member is an average of the pensionable pay received over the three months (the reference period) prior to the relevant event (a-c above) grossed up to an annual rate. Where a member is paid at a frequency other than monthly, the annual rate of APP is the average of the pensionable pay received over the 12 weeks prior to the relevant event grossed up to an annual rate.

In calculating APP you should remove any pensionable lump sum payments that a member may have received in the APP reference period, but include any APP which has been credited to that member in the reference period.

For more information on APP, please see section 11 of the HR Guide and section 4.2 of the Payroll Guide.

Key points: Assumed Pensionable Pay (APP) for a monthly paid member for a given day is the average of that member's pensionable pay received over the previous three months (or the previous 12 weeks, where that member is paid a pay frequency other than monthly). Where APP is applicable it should drop in to the cumulative pensionable pay figures you provide to your Pension Fund administering authority for each member (see point 7 for more details on the information that needs to be provided).

4. Additional Pension Contributions (APCs)

Summary: APCs were introduced from April 2014 and are **the method through which members can purchase additional pension in the LGPS from April 2014.** This is in addition to the option of increasing benefits through Additional Voluntary Contributions (AVCs).

APCs are also the method through which members can buy back pension which has been 'lost' when a member has a period of:

- **authorised** unpaid leave of absence,
- unpaid additional maternity, paternity or adoption leave, or
- absence due to a trade dispute.

Where a member has a period of **unauthorised** unpaid leave of absence there is no facility for that member to buy back their lost pension via an APC contract.

In some circumstances, a member's employer is obliged to contribute 2/3rds of the cost of the APC contract when a member confirms, within 30 days of returning to work, that they wish to purchase this lost pension. These contracts are known as **shared cost APCs (SCAPCs)**, and the types of leave which are eligible for SCAPCs are as follows:

- **authorised** unpaid leave of absence, or
- unpaid additional maternity, paternity or adoption leave.

Members can get a quote for an APC contract from www.lgps2014.org. To buy back lost pension, members will need to know the total pay lost during their absence. Members may therefore get in touch with you to ask for that figure and you will need to provide this promptly so that, where a member is eligible for a SCAPC, they are able to make the formal application within 30 days of returning to work. Some employers may consider providing lost pay figures automatically to members on their return to work as part of an existing process.

Guidance on the process for purchasing additional pension contributions is available on www.lgpsregs.org in the APC Guidance paper. You may wish to contact your Pension Fund administering authority who can tell you more about how they wish the process to be operated in their fund.

Key points: Members can buy additional pension through Additional Pension Contribution (APC) contracts under the new Scheme benefits structure. APCs are also used to buy back lost pension from April 2014, and some types of absence can result in the employer having to contribute 2/3rds of the cost. These are called shared cost APCs (SCAPCs).

5. Discretions

Summary: As under previous regulations, the LGPS Regulations 2013 detail a number of situations where an employer may have to exercise a discretion in respect of their employees' pension benefits, or their former employees' deferred pension benefits. In exercising these discretions, each employer is required to **formulate, publish and keep under review a policy statement** stating their policy in respect of these discretions.

The LGPS Regulations 2013 stipulate this requirement in five areas, namely:

- Voluntarily contributing, via a Shared Cost Additional Pension Contribution (SCAPC) contract, towards extra annual pension a member wishes to purchase (either by regular ongoing contributions or a one-off lump sum);
- Flexible retirement;
- Waiving all or part of any actuarial reduction when a member chooses to take their benefits prior to their normal pension age;
- Award of additional pension (at whole cost to the employer) to an active scheme member (or within 6 months of leaving to a member whose employment is terminated on the grounds of redundancy or business efficiency); and
- Switching on the '85 year rule' for members who would otherwise be subject to it but who choose to voluntarily draw their benefits (other than on the grounds of flexible retirement) on or after 55 and before age 60.

In addition, there are other discretions under the LGPS 2014 Scheme where it would be best practice to have a policy in place, as well as some discretions for which you will need to have a policy in order to deal with requests for early payment of benefits awarded under previous regulations**.** In formulating your policies under the LGPS Regulations 2013 you may wish to also review and update the policy statement maintained by your organisation in respect of these earlier discretions.

Under the LGPS Regulations 2013, your policy statement on discretions should have been copied to your Pension Fund administering authority by the 30th June 2014. **Please get in touch with the relevant contact at your Pension Fund administering authority if you want to check your organisation's position or find out more about this.**

The Discretions Policies document contains more detail on the discretions employers are required to formulate a policy on. For more general information on employer discretions in LGPS 2014, please see section 17 of the HR Guide.

Key points: The LGPS Regulations 2013 require employers to formulate, publish and keep under review a policy statement in respect of certain discretions in a similar way that discretions policies were required under earlier Scheme regulations. Employers should have copied their policy statement to their Pension Fund administering authorities by the end of June 2014. Some of the pre-April 2014 discretions will continue to be required in relation to pre-April 2014 leavers and employers may wish to use the requirement to formulate new policies under the 2013 Regulations as an opportunity to review their policies relating to pre April-2014 leavers.

6. The 50/50 section

Summary: Since April 2014, the LGPS in England & Wales has offered its members the opportunity to join the '50/50' section of the Scheme. **Members who choose to join this section of the Scheme pay half their normal contributions and accrue half their normal pension benefits during the period of time they are in that section of the Scheme.** If a member dies in service or retires with an enhanced (Tier 1 or Tier 2) ill health pension whilst in the 50/50 section the lump sum death grant (in the case of death in service) and the amount of ill health enhancement granted to members (in the case of ill health retirement) or upon which any survivor's benefit is calculated (in the case of death in service) will be calculated as if the member was in the main section of the Scheme.

If an employee has more than one job they can elect for the 50/50 section in one, some or all of their jobs, and can elect to move between the main and 50/50 sections of the Scheme any number of times.

From an employer's perspective, there are a number of things to bear in mind when a member joins the 50/50 section:

- The payroll system needs to have the capacity to deduct contributions at half the member's normal contribution rate. So, a member with a pensionable pay of £27,000 and a normal contribution rate of 6.5% who chooses to participate in the 50/50 section would need their contributions deducted at 3.25%
- Whilst employee contributions are halved during a member's participation in the 50/50 section of the Scheme, **employer contributions continue to be payable at the full rate** notified to your organisation by your Pension Fund administering authority following each triennial valuation of the fund.
- At the end of the Scheme year when submitting year end information to your Pension Fund administering authority your organisation must be able to split a member's contributions and pensionable pay for any period when they were in the 50/50 section of the Scheme from the contributions and pensionable pay for that member when they were in the main section of the Scheme.
- If a member is in the 50/50 section and goes onto no pay due to sickness or injury, the employee must be moved back into the main section from the beginning of the next pay period if they are still on nil pay at that time. The employee can choose to make a further 50/50 election which, if made before payroll is closed, would mean continuous 50/50 membership
- **When you reach your automatic re-enrolment date, any members in the 50/50 section of the LGPS must be bought in to the main Scheme.**
- There are potential implications if a member paying additional contributions moves to the 50/50 section of the Scheme. Please see section 3 of the Payroll Guide for more information in respect of this.

For more detailed information on the requirements for employers when a member moves to the 50/50 section of the Scheme, please see section 3 of the Payroll Guide.

Key points: Since April 2014, members have been able to move to a '50/50' section of the Scheme in which they pay half their normal contributions and get half their normal pension benefits. During such periods, employers continue to pay their contributions at their full contribution rate. Employers will need to put any 50/50 section members back in to the main section of the Scheme and begin deducting contributions at the full rate when the employer meets its automatic re-enrolment date, or from the beginning of the pay period after the member goes onto no pay due to sickness or injury if they are still on nil pay at that time.

7. Information to be provided

Summary: The introduction of a career average revalued earnings (CARE) scheme from 1st April 2014 coupled with the protection of rights members have already accrued prior to that date means that there are changes to the **information you will need to provide to your Pension Fund administering authority at the end of each Scheme year, when a member leaves active membership of the Scheme and at certain other times**.

For instance, in order for the Pension Fund administering authority to correctly calculate the pension accruing to each member in the CARE scheme you will, at the end of each Scheme year, need to provide to the administering authority with each member's pensionable pay (based on the 2014 definition, inclusive of non-contractual overtime and as set out in more detail under point 2 above) per job (if the member has more than one concurrent job with you) and inclusive of any APP (as described under point 3 above) which may apply. You will also have to notify them of the contributions deducted from that pay.

In addition, where a member has participated in the 50/50 section at any point during the Scheme year, your Pension Fund administering authority will need to be provided with the pensionable pay earned by that member whilst in that section of the Scheme (including any APP which is applicable whilst in the 50/50 section) and the contributions deducted, both of which should be **separated from the pensionable pay and contributions which relate to the period in the main section**. Pension Fund administering authorities will also need to know the section of the Scheme the member was participating in at the end of the Scheme year.

As members who participated in the LGPS prior to April 2014, and some members who have transferred to the LGPS pre April 2015 membership from another public service pension scheme, retain a final salary link on their pre-2014 benefits (or their pre-2015 transferred in benefits), **your organisation must also be able to provide the full time equivalent pensionable pay figure (2008 Scheme definition) to your Pension Fund administering authority** each Scheme year for every such active member of the Scheme. This will need to be supplied even for such members who weren't in your organisation's employment prior to April 2014 as the member may retain a final salary link from another period of LGPS or other public service pension scheme membership.

In the year a member leaves active membership of the Scheme, much of the same information will need to be supplied up to the member's date of leaving.

You will also have to supply the full time equivalent pensionable pay figure (2008 Scheme definition) for a member at their Normal Pension Age under the 2008 Scheme (usually age 65) if the member is subject to the underpin and continues in employment beyond their Normal Pension Age.

Further information on final pay (as defined under the 2008 Scheme) and on the underpin is contained in section 6.1 of the Payroll Guide.

Although for many employees actively participating in the LGPS in England & Wales, details of hours changes and of service breaks are no longer required to calculate their benefits under the Scheme, **there are some Scheme members for whom this information will need to be held and provided.** Details of these members are set out below.

Changes of contractual hours and/ or weeks (or the average hours for the Scheme year for employees who have no contractual hours) will still be required for the following members:

a) members to whom the **underpin calculation applies** where the change occurs prior to Normal Pension Age (NPA, 2008 Scheme definition – normally age 65) so that the underpin calculation can be accurately performed,
b) members who have an **added years contract** (as the added years contract has to be adjusted upon a change in contractual hours), and
c) members **covered by regulation 20(13) of the LGPS (Benefits, Membership and Contributions) Regulations 2007** (minimum ill health enhancement for those who were active members before 1st April 2008, were aged 45 or over at that time, have been in continuous membership since then, and have not already received any benefits in respect of that membership) as a change in contractual hours can affect the level of the minimum ill health enhancement.

If you are unsure which of your members (if any) fall in to any of the above categories, please contact your Pension Fund administering authority. Section 6.1 of the Payroll Guide contains details of those members who will have protections under the underpin calculation.

Where your organisation does have members which fit in to categories a), b) or c), **you will need to provide, at each 31st March, the relevant changes that have occurred during the Scheme year** so that your Pension Fund administering authority is able to calculate the members' benefits for inclusion in their annual benefit statements (and to check whether the members have incurred any annual allowance tax liability). **In addition, when a member leaves the Scheme, details of the relevant changes will also need to be provided for the relevant Scheme year up to the member's date of leaving.**

Where a member does have protections under the 85 year rule, or is a member to whom the underpin calculation applies, **you will also need to let your Pension Fund administering authority know if, prior to that member's Normal Pension Age under the 2008 Scheme (usually age 65), that member has had any of the types of service break shown below**, and doesn't choose to purchase the 'lost' pension via an APC contract (see point 4 above).

The types of service break are:

- a trade dispute, or
- authorised unpaid leave of absence, or
- unpaid additional maternity, paternity or adoption leave, or
- unauthorised unpaid absence.

Please note that there is no facility to purchase pension 'lost' through unauthorised unpaid absence so breaks of this type, if falling before the member's Normal Pension Age under the 2008 Scheme (usually age 65), will always constitute a gap in service which you will need to inform your Pension Fund administering authority about.

The above does not set out in full the information which your Pension Fund administering authority will require at year-end, or when a member leaves active employment or at certain other times.

A list of the basic data a Pension Fund administering authority will require each Scheme year is set out in section 1 of the Payroll Guide.

Further information on the 2008 Scheme processes which continue to apply in certain circumstances under the new Scheme benefits structure can be found in section 16 of the HR Guide and in sections 6.1, 6.2, 6.3 and 6.4 of the Payroll Guide.

Each Pension Fund administering authority will have its own requirements as to how and when they wish to receive information and they will communicate their requirements to you.

Key points: For year-end processing, Pension Fund administering authorities will need details of the pensionable pay earned and contributions paid by your members in the course of the year (per job, if a member holds more than one concurrent job with you), split by periods when the member was participating in the main and 50/50 sections of the Scheme. The full time equivalent pensionable pay (2008 Scheme definition) will also need to be held and provided for members who retain rights to final salary benefits.

Much of the same information will also need to be supplied when a member leaves active employment or, for a member with underpin protections, at the point at which they reach their normal pension age (even if the member continues in active employment beyond this date).

Whilst details of changes in contractual hours /weeks and service breaks do not always now need to be provided to your Pension Fund administering authority, there are some members for which this information will continue to need to be held by your organisation.

Where this information is still needed, details of changes to contractual hours / weeks and of relevant service breaks should be provided to your Pension Fund administering authority at the end of each Scheme year. When such a member leaves the Scheme, this information will also need to be provided for the Scheme year up to the member's date of leaving.

8. Further information

Further information on the LGPS 2014 is available from the following sources:

LGPS Regulations website: http://www.lgpsregs.org. Contains details of LGPS scheme regulations, scheme statutory guidance and the HR, Payroll and Administration guides.

LGPS 2014 member website: http://www.lgps2014.org. A dedicated website for information for scheme members about the reforms to the LGPS from 1 April 2014.

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LGPC Secretariat
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