

Transfers in (version 1.2)

General principle

This paper sets out the rules which, from 1 April 2015, govern the transfer in of pension rights from another registered pension scheme or from a European pensions institution.

Where a regulation number is referred to it relates to the relevant regulation in the Local Government Pension Scheme (Scotland) Regulations 2014 unless the regulation number is preceded by TP, in which case the regulation number relates to the relevant regulation in the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014. The title of any other legislation referred to is quoted in full.

Obtaining information from employees

Obtaining details of any other pension rights a new member may have has, from 1 April 2015, been more important than ever in order to ascertain whether or not the member:

- a) has other rights in the LGPS in Scotland (as these will have to be automatically aggregated, except in circumstances where the member can choose to retain separate benefits), or
- b) has been in membership of a public service pension scheme (even a period for which they have received a refund of contributions or transferred out to another scheme) and, if so, whether there has been a continuous break in active membership of such schemes of more than 5 years (as a break of 5 years or less will not break the final salary link for pre 1 April 2015 LGPS (Scotland) membership or for any final salary benefits transferred in to the LGPS from another public service pension scheme). Membership of a public service pension scheme is active membership of a scheme covering civil servants, the judiciary, the armed forces, any scheme in England, Wales or Scotland covering local government workers, or teachers, or health service workers, or fire and rescue workers or members of the police forces; or membership of a new public body pension scheme. It should be noted that if a person leaves the LGPS, goes to the private sector for 4 years, moves to the NHS for 6 months, returns to the private sector for 4 years, then comes back to the LGPS, the fact that they may have taken a refund from the NHS Pension Scheme will not have broken continuity. However, if a person leaves the LGPS, goes to the private sector for 4 years, comes back to local government for 6 months but opts out within 3 months of joining the LGPS, returns to the private sector for 4 years, then comes back to the LGPS, continuity will have been broken (because the person is treated as never having been a member of the LGPS during the middle 6 months of local government employment).

New starter forms completed by a scheme member will need to include a section which the member signs to authorise the administering authority to:

- a) obtain a CETV quotation from any non-Club scheme or Club scheme from which the member wishes the administering authority to investigate a potential transfer of pension rights into the LGPS, and
- b) obtain previous scheme membership details from any other LGPS administering authority or the administrators of any other public service pension scheme:
 - i) regardless of whether or not the member has ongoing rights in those schemes i.e. even if they have taken a refund from the other public service pension scheme or have transferred the rights out of that scheme to another, non-public service, pension scheme, and
 - ii) regardless of whether or not the member wishes to transfer the previous rights.

When, in respect of (b) above, the administering authority contacts the former scheme to seek confirmation of the dates the administering authority should ask whether or not a refund has been paid and, if so whether that was under a rule akin to that in the LGPS where a person opting out within a specified period of time is treated as never having been a member (as, if the member was treated as never having been a member, the period in respect of which the refund was paid will count towards a continuous break in active membership of public service pension schemes of more than 5 years).

Non-Club transfers in

An active member can make a request to the appropriate administering authority to transfer in accrued rights from another registered pension scheme or from a European pensions institution [regulation 98(1)].

The request must be made in writing to the appropriate administering authority within 12 months of first becoming an active member of the LGPS in an employment or such longer period as the Scheme employer may allow [regulation 98(6)]. It would be appropriate for Scheme employers to have a written policy on the exercise of this discretion.

Even if a transfer request is made by a person within 12 months of first becoming an active member of the LGPS in an employment, the appropriate administering authority may still decline to accept the request [regulation 98(7)].

Accrued rights include rights where guaranteed minimum pensions have been secured by insurance policies or annuity contracts under section 19 of the Pension Schemes Act 1993 [regulation 98(3)].

A European pensions institution:

- a) is an institution for occupational retirement provision that has its main administration in an EEA state, other than the United Kingdom, and
- b) is an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed
 - individually or collectively between the employer(s) and the employee(s) or their respective representatives, or
 - with self-employed persons, in compliance with the legislation of the home and host Member States,and which carries out activities directly arising therefrom.

[Schedule 1]

A transfer in of pension rights that are directly or indirectly attributable to a pension credit (resulting from a Pension Sharing Order following a divorce or dissolution of a civil partnership) is not permitted [regulation 98(2)(a)].

Where the 'relevant date' for the transfer in is before 1 April 2015 the transfer will purchase pre 1 April 2015 membership [TP regulations 9(3A) and 9(3B)].

Where the 'relevant date' is on or after 1 April 2015 the appropriate administering authority must credit the member's pension account with an amount of earned pension in accordance with actuarial guidance issued by the Scottish Ministers [regulation 99].

The 'relevant date' is the date on which the person first became an active member in the employment, or the date the transfer payment is received if more than 12 months later [TP regulation 9(4)].

Club transfers

The Cabinet Office have issued a revised [Public Sector Transfer Club Memorandum](#) (dated March 2015 but effective from 1 April 2015) which covers voluntary transfers between Public Service Pension Schemes together with information on valuing Club transfers for the purposes of the Annual Allowance. The new memorandum includes an extension of the arrangements to protected members (those older members in the other public service pension schemes who retain a right to membership of the open final salary scheme) and those with service in the new CARE schemes.

The LGPS will face additional costs in meeting these new arrangements in the following ways:

- a) as the LGPS does not have an open final salary scheme it would have to offer 'underpin arrangements' to those who would have met the underpin criteria if they had been in the LGPS on 31 March 2012 and who were in

another public service pension scheme on that date and would have been within 10 years of Normal Pension Age in that scheme on that date. Note, however, that the LGPC Secretariat is seeking to resist this.

- b) CARE members would, whilst an active member, have their transferred pension amount continually revalued at the rate applicable to the scheme they left. For example, teachers who transfer to LGPS would, during the period of active membership in the LGPS, continue to have the transferred pension revalued at CPI plus 1.6% rather than the CPI rate applying to the LGPS. As the LGPS has the lowest revaluation rate of all the public service schemes (apart from Civil Service) this arrangement always represents a potential cost to the LGPS.
- c) administration systems and processes will have to be adapted to cope with calculating underpins for members without qualifying LGPS service and multiple pension accounts each with its own revaluation rate.

The LGPC wrote to the Chief Secretary to the Treasury on 19 December 2014 asking that the LGPS in England, Wales, Scotland and Northern Ireland should be allowed to move to a position whereby it would continue to provide club transfers in respect of final salary benefits only (and would therefore remain part of the transfer CLUB for that purpose only). Transfers of CARE benefits would be treated as non-Club transfers in.

A follow up letter was sent along with a letter from the Shadow Scheme Advisory Board for England and Wales requesting that CLUB membership in respect of both final salary and CARE be on the table in future discussions on controlling the cost of the LGPS.

On 27 March 2015 the Chief Secretary to the Treasury responded, saying:

“Your letter sets out your concerns that LGPS participation in the Transfer Club could lead to increased costs for the scheme and your view that participation of the LGPS in the Club should be included in any future considerations of changes to be made as a result of the cost management process being triggered.

As I have set out in response to the concerns of the Local Government Association I am not persuaded at this time that it would be in the interests of LGPS members of the public sector as a whole if the LGPS did not participate fully in the Transfer Club. However, I do recognise that there may be a case to review this position in future, should increased costs to the scheme become material in the context of the scheme cost cap.

I am therefore happy to agree that LGPS participation in the Transfer Club could form part of any future cost management discussions.”

Thus, the LGPS will be required to remain in the Club, at least in the short-term.

The final salary element of a transfer in from an Outer Club scheme will purchase pre 1 April 2015 membership and retain a final salary link¹ even though the member had never actually been in the LGPS pre 1 April 2015. That means that, for such members, the administering authority will have to obtain a final pay calculation from Scheme employers every 31 March (and at date of leaving) for both annual benefit statement and annual allowance calculations (even though the person had never been in the LGPS pre 1 April 2015).

Where there is not a break of more than 5 years between leaving the sending Club scheme and joining the LGPS the transfer will be dealt with as a Club transfer.

Where there is a break of more than 5 years between leaving the sending Club scheme and joining the LGPS and:

- a) the sending scheme is a non-public service pension scheme, or
- b) the sending scheme is a public service pension scheme but there has been a break in active membership of public service pension schemes of more than 5 years

the transfer will be dealt with as a non-Club transfer (see the section above which covers non-Club transfers).

However, if the transfer is from a public service pension scheme and the member:

- i) moves from Scheme A to Scheme B and then to Scheme C (all of which are public service pension schemes),
- ii) transfers from Scheme A to Scheme C

¹ It should be noted that it appears that a final salary transfer from **any** Club scheme, not just a public service pension scheme, will have to purchase final salary membership under the terms of the Outer Club (provided there isn't a break of more than 5 years between leaving the sending scheme and joining the LGPS). This has been confirmed by the Cabinet Office (who are responsible for the Club). Regulation 9 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 only currently allows for a pre-15 final salary service credit to be provided if the transfer is from a public service pension scheme and there has been no break in active membership of public service pension schemes of more than 5 years (as per section 20 and paragraph 2 of Schedule 7 to the Public Service Pensions Act 2013). As the Cabinet Office has confirmed that the LGPS Secretariat's understanding is correct, an amendment to regulation 9 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to cater for other Outer Club transfers is required. It should also be noted that this can lead to what appear to be bizarre results in some cases. Take, for example, a member who has a deferred LGPS benefit in respect of membership ending 31st March 2007. The member joins USS on 1st April 2007 (a Club Scheme) but does not transfer his accrued LGPS rights. The member leaves USS on 31st July 2015 and re-joins the LGPS on 1st August 2015. He elects to transfer his accrued USS final salary rights to the LGPS. Those final salary (Outer Club) USS rights purchase pre-15 final salary membership in the LGPS but the earlier LGPS deferred benefit, if aggregated, will purchase an amount of CARE pension (because there had been a break of more than 5 years in active membership of a public service pension scheme).

- iii) the break between Scheme A and Scheme C was more than 5 years but there has been no break in active membership of public service pension schemes of more than 5 years (because the person was in Scheme B in the intervening period)

the transfer from Scheme A to Scheme C will be a **non-Club** transfer. If the transfer includes final salary benefits, that part of the transfer will still buy pre-15 membership but on a **non-Club** basis and, if any such cases arise, administering authorities should refer the case to SPPA for onward transmission to GAD. A transfer from Scheme B to Scheme C would be a **Club** transfer. Conversely, if the member had transferred the pension rights from Scheme A to Scheme B and then to Scheme C, each would have been treated as a **Club** transfer.

As now, where a service credit giving final salary membership is granted, the receiving Scheme will 'pay' for the impact of any increase in salary (i.e. between the salary on leaving the former Scheme and the salary on joining the LGPS). So, in effect, Outer Club transfers in of final salary benefits would continue on the basis of current Club rules.

The existing Club rule that members must elect to proceed with a Club transfer within 12 months of joining the LGPS will continue to apply. However, elections should not be accepted where an individual resigns from employment or opts out of membership of the scheme and re-joins the same scheme within 6 months, except during any period after re-joining which falls within 12 months of first becoming eligible to join the scheme.

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