

## Q&A for LGPS Employers

### Freedom and Choice - Transfers from the LGPS to Defined Contribution Schemes

Over recent months there has been a great deal of information in the media and elsewhere about the Government's announcement in the 2014 Budget that reforms to workplace pensions would be made, effective from 6 April 2015. These reforms offer greater flexibility ('Freedom and Choice') in the way individuals aged 55 and over can access any Defined Contribution pension savings they may have.

It's important that, as an employer participating in the Local Government Pension Scheme (LGPS), you understand that your employees who are members of the LGPS are members of a public sector Defined Benefit scheme. This means that the flexibilities being introduced under 'Freedom and Choice' do not impact on how they can take their benefits directly from the LGPS.

There are, however, some indirect changes which will impact upon any members of the LGPS who are considering transferring the value of their accrued LGPS Defined Benefit pension rights from the LGPS to a Defined Contribution arrangement offering 'flexible benefits'.

The following questions and answers aim to help you understand the new pensions freedoms and how they may impact on your role as an LGPS employer.

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#### Q1. What is Freedom and Choice?

**A1.** From 6 April 2015 members of certain pension schemes will have more freedom over how they take their money from their pension pot.

These changes affect pension scheme members who are:

- age 55 or over, and

- have a pension based on how much has been paid into their pot (a Defined Contribution pension).

There will now be four main options for members who are in a Defined Contribution pension scheme which offers flexible benefits from their pension pot including:

- purchase an annuity (annual pension) or scheme pension if offered by the scheme
- flexi-access drawdown
- taking a number of cash sums at different stages
- taking the entire pot as cash in one go.

These new flexibilities do not apply to pension benefits individuals have in Defined Benefit pension schemes, including the LGPS, and therefore they have no direct impact on your employees' Defined Benefits from the LGPS.

## **Q2. Does Freedom and Choice impact on LGPS members at all?**

**A2.** Not directly. However, if an LGPS member ceases active membership of the scheme with 3 or more months' membership then, unless they are retiring with immediate payment of their benefits on the grounds of redundancy, business efficiency or ill-health, they will be given information about their right to transfer their benefits built up in the LGPS. If they then choose to use the right to transfer the value of their LGPS Defined Benefits to a Defined Contribution pension scheme which offers flexible benefits, they will be able use the 'Freedom and Choice' flexibilities under that scheme.

## **Q3. Are there any new rules around transfers from the LGPS to a defined contribution scheme?**

**A3.** Yes, if a person ceases membership of the LGPS and wishes to use the right to transfer the value of their LGPS Defined Benefits to a Defined Contribution pension scheme which offers flexible benefits they will be obliged by law to obtain appropriate independent advice, at their own cost<sup>1</sup>, from an authorised independent adviser who is registered with the Financial Conduct Authority (FCA). The member must prove to the LGPS administering authority that this advice has been taken before any payment of a transfer can be made from the LGPS Pension Fund(s) to a Defined Contribution pension scheme offering flexible benefits.

Members are only entitled to make one request for a transfer quotation from the LGPS administering authority in any 12 month period and, if they wish to proceed with a transfer, the election to proceed must be made at least 12 months before their Normal Pension Age in the LGPS or, if they are a Pension Credit member<sup>2</sup>, at least 12 months before their Normal Benefit Age.

In addition members can only transfer benefits from the LGPS if they have left the scheme and have not already drawn benefits from the LGPS (either in their current employment or any earlier employment).

## **Q4. Are there any exemptions to the rule on advice?**

<sup>1</sup> But note the answer to question 7.

<sup>2</sup> A Pension Credit member is a person who, as part of a settlement following divorce or dissolution of a civil partnership, has been given a share of their ex-spouse's or ex-civil partner's pension benefits in the Scheme which the Pension Credit member now holds in the Scheme in their own right..

**A4.** Yes, if the total value of all of a member's LGPS benefits<sup>3</sup> across all LGPS Pension Funds is £30,000<sup>4</sup> or less then they are not legally required to take advice. However, given the impact on their LGPS benefits, members are recommended to take such advice regardless of the legal requirement.

In addition, if a member leaves the LGPS with 3 or more months' but less than 2 years' membership (and does not have an entitlement to a deferred benefit in the LGPS in respect of that membership) they would not be legally required to take advice. However, given the impact on their LGPS benefits, members would again be recommended to take such advice regardless of the legal requirement.

#### **Q5. What should we do if one of our employees asks us about the new freedoms?**

**A5.** If a Scheme member is looking for general information about Freedom and Choice and how that relates to the LGPS, please direct them to either the [Q&A for LGPS Members](#) (England and Wales) or the [Q&A for LGPS Members](#) (Scotland) that have been produced to provide Scheme members with information about the new rules governing transfers from the LGPS to Defined Contribution pension schemes offering flexible benefits.

If a Scheme member has questions about the Defined Benefits they have accrued whilst a member of the LGPS, your organisation's LGPS Pension Fund administering authority will be in a position to provide them with information about their particular situation. However, your LGPS Pension Fund administering authority will, by law, not be able to provide advice to Scheme members, which can only be provided by an independent adviser who is authorised by the Financial Conduct Authority (FCA) to provide advice on transfers between pension schemes.

#### **Q6. Are there any impacts on our role as a Scheme employer that we should be aware of?**

**A6.** The new flexibilities are only accessible to an LGPS member if they choose to transfer their benefits to a Defined Contribution pension scheme which offers flexible benefits. Transfers to Defined Contribution pension schemes from the LGPS were already permitted prior to the implementation of the reforms and so there are no direct impacts on the role of an LGPS employer following the implementation of these flexibilities.

#### **Q7. What are the potential consequences for a Scheme employer which attempted to encourage their members to transfer their benefits out of the LGPS?**

**A7.** An employer would have to meet the cost of the independent financial advice if two or more Scheme members were sent information by, or on behalf of, an employer setting out the options available to the member in terms that encouraged, persuaded or induced the member to request a transfer of benefits from the LGPS to a Defined Contribution scheme which offers flexible benefits.

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<sup>3</sup> LGPS benefits include active, deferred, deferred refund and pension credit benefits.

<sup>4</sup> This £30,000 limit is across the scheme so if a member in the LGPS in England and Wales it's the value of all benefits in that scheme, if a member in the LGPS in Scotland it's the value of all benefits in that scheme and if a member in the LGPS in Northern Ireland it's the value of all benefits in that scheme.

Additionally, under section 54 of the Pensions Act 2008 a Scheme employer has, since July 2012, not been allowed to take any action the sole or main purpose of which is to induce a member of an automatic enrolment qualifying scheme<sup>5</sup> to opt out of the Scheme (without immediately providing that the person becomes an active member of an alternative qualifying scheme to which the employer would have to make a contribution if the person is an eligible jobholder or non-eligible jobholder).

A Scheme employer attempting to encourage, persuade or induce a member to opt out of the Scheme in order to transfer their benefits from the LGPS to a Defined Contribution scheme which offers flexible benefits would therefore be running the risk of contravening this provision. In such a situation, the Scheme employer concerned could be issued with a compliance notice by the Pensions Regulator and ultimately could be subject to a fixed penalty notice of not more than £50,000.

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<sup>5</sup> S16(1) of the Pensions Act 2008