

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC BULLETIN 52 – JULY 2008

Please contact Dave Friend with any comments you might have on the contents of this Bulletin or to suggest other items that you would wish to see included in future Bulletins.

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LGPS 2008 – Ill-Health Certificates

The Secretariat has issued seven sample ill-health certificates. These were attached to [Circular 212](#). There are three ill-health certificates for active members:

- one for councillors,
- one for employees where an ill health determination is made before 1 October 2008, and
- one for employees where a determination is made on or after 1 October 2008.

The certificates for employees were reproduced in Annex A to the draft Statutory Guidance issued by CLG on 1 July 2008 but please note that the “Important notes” at the end of the second form in Annex A to the draft Statutory Guidance should have been numbered (1), (2) and (3) and not (5), (6) and (7).

There are also four ill-health certificates for deferred pensioners seeking early payment on the grounds of permanent ill health or infirmity of mind or body:

- one for deferred pensioners who ceased active membership as an employee before 1 April 1998;
- one for deferred pensioners who ceased active membership as an employee between 1 April 1998 and 31 March 2008 inclusive
- one for deferred pensioners who ceased active membership as an employee after 31 March 2008, and
- one for councillor members with deferred benefits.

LGPS 2008 – Ill-health - Draft Statutory Guidance

CLG issued the [draft Statutory Guidance](#) together with [a covering letter](#) on 1 July 2008. The closing date for the consultation exercise on the draft Statutory Guidance is 12 August 2008. The Statutory Guidance is broken down into a number of sections in order to explain:

- the role of the employer;
- questions the employer must determine;
- the role and status of the independent registered medical practitioner (IRMP);
- questions for the IRMP to determine;
- definitions used within regulations 20 and 31 of the Benefit Regulations; and
- the regulations in practice.

Prior to the publication of the Statutory Guidance, CLG issued a “[comfort letter](#)” on 5 June 2008. The intention was to, “clarify some of the issues arising from the implementation of the new ill-health retirement benefit provisions”.

LGPS 2008 – Ill-health Monitoring Group (IHMG)

The Ill-health Monitoring Group comprises representatives of stakeholders (Trade Unions, employers, HR professionals and administering authorities), medical practitioners and CLG. The second and third meetings of the group were held on 19 June and 16 July 2008 and discussed issues concerning the ill health provisions in the Benefits Regulations, the intended publication of the full Statutory Guidance and FAQs and training for Independent Registered Medical Practitioners (IRMPs). The meetings also began to consider how to capture data on ill health retirements and how this data might best be obtained.

Representatives of stakeholders requested clarification on a number of aspects of the new provisions including how / when a third tier pension that had been suspended following a review could be brought back into payment. Can a member seek early payment prior to age 65 and, if so, how would any actuarial reduction be assessed (given that an unreduced lump sum and up to three years of unreduced pension will already have been paid)? Can a member ask for a Cash Equivalent Transfer Value to be paid and, if so, how will the CETV be reduced to take account of the lump sum and up to three years of unreduced pension that will already have been paid? CLG agreed to check the legal position and report back to the IHMG.

CLG reported that a number of LGPS practitioners had experienced difficulty in interpreting the ill-health transitional protection under regulation 20(15) of the Benefits Regulations. They have now published Pension Changes No. 5 which anticipated the draft Statutory Guidance and further clarified and explained the practical application of the transitional ill-health provisions. CLG maintain that, for all practical purposes, both regulation 27 of the LGPS Regulations 1997 and regulation 20 of the Benefits Regulation 2007 remain in force until 30 September 2008. Thus, for determinations made before 1 October 2008, employers will need to consider whether the member meets the criteria for benefits under either or both sets of regulations. If the member meets the criteria under both sets of regulations, a calculation of benefits including a 1/60th ill-health enhancement is to be made under both sets of regulations and the larger of the two awards is made.

CLG provided an example in Pension Changes No. 5. If a member qualifies for a third tier ill-health pension before 1 October 2008 and would qualify for an enhancement of 6 years 243 days under the LGPS Regulations 1997, he or she would receive an enhanced ill-health pension under the LGPS Regulations 1997. The enhancement would be based on an accrual rate of 1/60th and the ill-health pension would be payable until the member's death, without any review.

LGPS 2008 – GAD Guidance on Lifetime allowance and Additional Cash Commutation

The above guidance dated 18 June 2008 was issued by CLG on 20 June 2008 but is effective from 1 April 2008. Fortunately, most of the guidance repeats the guidance issued in respect of regulation 20 of the LGPS Regulations 1997 concerning the calculation of a member's maximum Pension Commencement Lump Sum (PCLS).

On page 4 of the guidance, there is a section entitled, "Important notes" which give rise to a number of observations and considerations.

The 3rd important note specifically states that where benefits are actuarially reduced, then it is benefits, after the actuarial reduction, that are to be used in determining the member's maximum PCLS. There is not an equivalent statement where the member's benefits are actuarially increased under regulation 17 of the Benefit Regulations. It is reasonable to assume that it is the post actuarially increased benefits which are used to determine the member's maximum PCLS where the member does not crystallise benefits until after his or her 65th birthday.

There is no explicit mention of Pensions Increase and / or the application of the formulae where the member is crystallising deferred benefits into payment. It appears reasonable to assume that the calculation of the maximum PCLS includes PI accrued between the cessation of active employment and the date the member brings the deferred benefits into payment, rather than calculating maximum PCLS and then applying PI to the resultant figure, but clarification is being sought from CLG / GAD.

There is no mention of requisite benefits. As membership for requisite benefits ceased accruing on 30 April 1995, the relevancy of the requisite benefits test has diminished over time for active members, and so the test appears to have been removed for post 31 March 2008 leavers.

[Note, in the previous GAD guidance issued in respect of regulation 20 of the LGPS Regulations 1997, which the Secretariat believes still applies to pre 1 April 2008 leavers, members could commute part of their pension to increase the lump sum provided the pension at the BCE date exceeded the member's requisite benefit. Subject to that proviso, the post commutation PCLS could not exceed 25% of the overall value of crystallised benefits and the post commutation pension had to be at least equal to the member's GMP.]

The Secretariat has compiled a document which provides the algebraic proofs behind the formulae used by GAD. Any LGPS administrators, who are suffering from insomnia, should contact David Friend if they wish to receive a copy of the document.

LGPS 2008 – GAD Guidance on Interfund Transfers

CLG issued a letter, dated 4 July 2008, to all LGPS Pension Managers. The letter stated that GAD had provided further clarification with respect to the guidance on Interfund transfers. GAD intended that the phrase 'rate of salary' used in paragraph 2.2 (on page 5 of the guidance) should be the final pay that would be used in a CETV calculation and not the rate of pay at the date of leaving. Administering authorities should check with the software suppliers of their pensions administration system when the necessary amendments will be implemented.

The Secretariat has been asked by some administering authorities to provide a view on the meaning of paragraph 2.4 of the GAD guidance. Paragraph 2.4 says "The effective date of the calculation should be the date of the election that triggers the transfer" without clarifying what is meant by an "election". Regulation 16 of the LGPS (Administration) Regulations 2008 and regulation 4 of the LGPS (Transitional Provisions) Regulations 2008 do not use the word "election" but merely state that the member may "choose", by giving notice in writing, to aggregate membership. Regulation 86 of the LGPS (Administration) Regulations 2008 similarly refers to making a "choice" (apart from when talking about aggregation of concurrent membership where the Regulations do use the word "election"). Although the Regulations do not refer to an "election" but refer instead to a choice by giving notice in writing, the Secretariat is of the view that the act of giving notice in writing must itself represent an election. Thus, the effective date for the IFA calculation will be the date the member first chooses in writing to aggregate the membership (which could, for example, precede the date the member fills in a transfer declaration form). Interest would be payable in accordance with paragraph 2.6 of the GAD guidance if the IFA is not paid within 3 months of the date the member first chooses in writing to aggregate the membership (i.e. within 3 months of the "election" date). In frozen refund cases the Secretariat is aware that there has been some debate as to whether or not the member has to elect to aggregate the membership or whether, as seems to be required by Regulations 86(1)(a) and (b) and 86(2) of the LGPS (Administration) Regulations, an IFA is automatically payable without the need for an election to aggregate benefits. For Funds who take the latter view, the effective date to be used in the calculation of the IFA would be the date the person becomes a member in the new fund. If a Fund takes the former view, the effective date to be used in the calculation should be the date of the member's election in writing to aggregate.

LGPS 2008 – Individual Inward Transfers

On 18 July 2008 CLG issued a letter confirming that [transfers in for cases where the member is entitled to a protected NRD](#) - the old age 60 / 25 years' service date – no longer need to be referred to GAD and can, instead, be calculated under the transfer guidance in force at 31 March 2008.

This change is reflected in the following summary (see in particular the box marked **) which is an updated version of the table that appeared in Bulletin 51:

Group 1: a member who was a member prior to 1 October 2006 and born on 31 March 1956 or earlier

Group 2: a member who was a member prior to 1 October 2006 and born between 1 April 1956 and 31 March 1960 inclusive who would reach their Critical Retirement Age by 31 March 2020

Group 3: a member who was a member prior to 1 October 2006 and who is not a Group 1 or Group 2 member

Group 4: a member who was not a member prior to 1 October 2006.

Part A: membership up to 31 March 2008

Part B: membership from 1 April 2008 to 31 March 2016

Part C: membership from 1 April 2016 to 31 March 2020

Part D: membership from 1 April 2020

	Group 1	Group 2	Group 3	Group 4
Part A	CRA	CRA	CRA	65
Part B	CRA	Pension Taper	65	65
Part C	65	Pension Taper	65	65
Part D	65	65	65	65

Transfers in - circumstances	Accrual Rate	Basis	Membership Counts as Part
Has LGPS membership before 1 October 2006 and was an active member on 31 March 2008.	1/80 + 3/80*	CRA*	A*
Active member immediately before 1 April 1998 (and member at 30 September 2006) and active member on 31 March 2008.	1/80 + 3/80**	Earlier of CRA or old protected NRD**	A**
Became active member after 30 September 2006 (with no previous pre 1 October 2006 LGPS membership)	1/80 + 3/80	Age 65	A

and active member at 31 March 2008.			
Joined after 1 April 2008 with no LGPS membership prior to 1 April 2008.	1/60	Age 65	D
Joined after 1 April 2008, not active on 31 March 2008 but has some membership before that date in respect of which they make an election under regulation 4(2) of the LGPS (Transitional Provisions) 2008 (as amended) and has transitional protection as has membership from before 1 October 2006.	1/60***	Age 65***	D***
Joined after 1 April 2008, not active on 31 March 2008 but has some membership before that date in respect of which they make an election under regulation 4(2) of the LGPS (Transitional Provisions) 2008 (as amended) and does not have membership before 1 October 2006.	1/60	Age 65	D
Service Credit under regulation 66(5) of the LGPS Regulations 1997 (as amended).	1/80 + 3/80****	CRA****	A**** but no reduction

* but if the member's CRA prior to the transfer was after age 60, the membership from the service credit will have the effect of dragging forward the CRA of all the member's membership (and hence the need for the reiteration calculation to determine the level of the service credit).

** but if the earlier of the member's CRA or protected NRD (age 60+ with 25 years qualifying service) prior to the transfer was after age 60, the membership from the service credit will have the effect of dragging forward the earlier of the CRA or protected NRD in respect of all the member's membership (and hence the need for the reiteration calculation to determine the level of the service credit). Note that, as per paragraph 3(1)(d) of Schedule 2 to the LGPS (Transitional Provisions) Regulations 2008, no "extra" qualifying service will attach to the transfer in if made after 31 March 2008 (i.e. where the period in the former scheme was greater than the service credit). Thus, only the membership purchased by the transfer will count towards the CRA and the protected NRD.

*** but the membership from the service credit will also have the effect of dragging forward the CRA of the member's pre 1 April 2008 membership.

**** but the membership from the service credit will also have the effect of dragging forward the CRA of all the member's membership.

Added years contract – election pre 1 October 2006	A
Added years contract – election post 30 September 2006	D
Augmented membership awarded under reg 52 of 1997 Regs to Group 1, 2 or 3 members	A
Augmented membership awarded under reg 52 of 1997 Regs to Group 4 members	D
Augmented membership awarded under Benefits reg 12	D*****
Pension awarded under Benefits reg 13	Treat as if Part D.

***** Augmented membership awarded after 1 April 2008 does not drag forward CRA of other membership (as per paragraph 3(2) of Schedule 2 to the Transitional Provisions Regulations 2008).

LGPS 2008 – Transfers to the in-house AVC arrangement

In Bulletin 51 we reported that whilst under the LGPS Regulations 1997 a member could transfer Free-standing AVCs (FSAVCs) and AVCs from another scheme into the in-house AVC scheme, under the LGPS (Administration) Regulations only AVCs from another LGPS Fund in England or Wales can be transferred into the in-house AVC scheme. FSAVCs and AVCs from other schemes cannot be transferred to the in-house AVC scheme; instead, transfers of FSAVCs or AVCs from another scheme can only be used to purchase a service credit in the LGPS. The Secretariat understood that this was an inadvertent change from the position that applied under the LGPS Regulations 1997 and would be the subject of a CLG consultation later this year to amend the LGPS (Administration) Regulations 2008. However, following a discussion at the Technical Group it was concluded that the financial interests of the Scheme would probably be best served if the LGPS (Administration) Regulations were not amended. Thus the position is as follows:

- transfer in of an FSAVC, an AVC attached to another non-LGPS pension scheme, or an LGPS AVC from Scotland or Northern Ireland – service credit only
- transfer in of an LGPS AVC from England or Wales = transfer to in house AVC arrangement only

The Secretariat is seeking confirmation that the service credit from the AVC part of a Club transfer in should be calculated using non-Club transfer factors.

LGPS 2008 – Widower's benefits

At the Technical Group meeting on 6 June 2008 the provisions of regulation 6(3) of, and Schedule 1 to, the LGPS (Transitional Provisions) Regulations 2008 were discussed. Following that discussion, CLG have confirmed that there has been a fundamental change in the way that widower's pensions are calculated in respect of a post 31 March 2008 leaver. The calculation of benefits for widows, widowers, civil partners and nominated co-habiting

partners are summarised in the table below. CLG have confirmed that the contents of the table are correct.

A relationship is regarded as “pre-retirement” if the partner married the member, entered into a civil partnership or nominated a co-habiting partner **before** the member ceased active membership. A relationship is regarded as “post-retirement” if the partner married the member, entered into a civil partnership or nominated a co-habiting partner **after** the member ceased active membership.

Partnership	Pre-retirement	Post-retirement
Civil Partner	Post 5 April 1988 membership only.	Post 5 April 1988 membership only.
Nominated partner co-habiting	Post 5 April 1988 membership only.	Post 5 April 1988 membership only.
Widow	All the member’s membership provided the widow was married at the date the member ceased active membership.	Post 5 April 1978 contracted-out membership.
Widower	All the scheme member’s membership (including pre 1 April 1972 and pre 5 April 1988 membership) provided the widower was married to the member at the date the member ceased active membership.	Post 5 April 1988 membership, plus Relevant Additional Membership (as defined in regulation 42(4) of the LGPS Regulations 1997) if the widower was not married to the member at the date the member ceased to be an active member but had been married to the member at some time during active membership after 31 March 1972. In other words, the odd case where the couple were married during a period of membership after 31 March 1972, had divorced before the member ceased active employment and subsequently re-married each other after the member had left.

Where a female member had elected to have the lump sum in respect of her pre 1 April 1972 membership reduced by 3/160ths, the election for a 3/160ths reduction has been overtaken by events and can now be ignored. Where a member is paying additional contributions to uprate her pre 1 April 1972 membership for widower's pension purposes / buy-out that 3/160ths reduction the contributions should now stop and, as a refund of those contributions is not, technically, allowable the member could be recompensed for the contributions already paid by way of the employer agreeing to provide an actuarially equivalent amount of augmented membership under regulation 12 of the Benefits Regulations or granting some extra pension under regulation 13 of the Benefits Regulations. It would seem reasonable that the employer should not have to pay for the augmented membership or the additional pension (provided it was actuarially equivalent to the contributions already paid into the Scheme by the member).

LGPS 2008 - Governance

On 21 July 2008 CLG issued [the draft Statutory Guidance on Governance](#) Compliance Statements.

The original deadline for Funds to prepare and publish a Governance Compliance Statement (including sending a copy to the Secretary of State) was 1 March 2008. However, CLG confirmed in an email to Pensions Managers on 15 February 2008 that the deadline was to be extended to 1 June 2008. This was subsequently extended to 1 August 2008 and the [letter accompanying the draft Statutory Guidance](#) has further extended the deadline to 1 November 2008. CLG have asked for comments on the draft Statutory Guidance to be submitted to them by no later than 5 September 2008.

LGPS (Scotland) 2009

The effective date for the new-look scheme in Scotland will be 1 April 2009. As in England and Wales, there are three separate sets of new regulations: the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008; the LGPS (Transitional Provisions) (Scotland) Regulations 2008 and the LGPS (Administration) (Scotland) Regulations 2008.

On 26 June, SPPA issued [statutory guidance](#) with respect to the assessment of a member's contribution rate in the new scheme. The statutory guidance was issued as version 1 which indicates that updated versions of the guidance will be issued as and when required. Table 1 of Annex C to the Statutory Guidance sets out the initial contribution rates for 2009/10.

Full Time Equivalent Pensionable pay	Rate (%)
On earnings up to and including £18,000	5.50
On earnings above £18,000 and up to £22,000	7.25
On earnings above £22,000 and up to £30,000	8.50
On earnings above £30,000 and up to £40,000	9.5
On earnings above £40,000	12.00

The initial guidance states that it is possible to calculate an average contribution rate, based on the tiered contribution in Table 1 of Annex C to the statutory guidance, for any given amount of pensionable pay. The average contribution rates are set out in Table 2 of Annex C to the guide.

Table 1 will be updated in line with Pensions Increase legislation on an annual basis by SPPA. Under the Benefit Regulations, the update will be applicable from the first pay period in that financial year. The updating of Table 1 will inevitably mean the bandings listed in Table 2 of Annex C will also need an update. SPPA have agreed to maintain Table 2 as well. SPPA will notify employers when the updated tables are available.

The Statutory Guidance includes a section which sets the general principles which all Scottish LGPS employers are to follow when allocating contribution rates to members. Annex A to the Statutory Guidance gives scenarios of how the general principles are to be applied. Annex B has worked examples of the application of the general principles.

Members, who are active at 31 March 2009, will have their contribution rate for 2009/10 determined by reference to their full-time equivalent rate of pensionable pay on 31 March 2009. New starters, who join the LGPS after 31 March 2009, will have their contribution rate determined by their full-time equivalent pensionable pay at the date of joining. Unlike England and Wales, there is no transitional protection for members who are currently paying a contribution rate of 5%. Manual workers will move immediately on to the new assessed contribution rate with immediate effect from 1 April 2009.

The other major difference between the new-look LGPS in Scotland and that applying in England and Wales is the ill-health benefit provisions for members who cease active membership on the grounds of ill-health. In Scotland, there will, as in England and Wales, be a three tier system but the details are different. In Scotland, where a member who has at least 2 years membership (or has had a transfer in from another pension scheme) is retired on the grounds of permanent ill health or infirmity of mind or body and has a reduced likelihood of obtaining gainful employment before age 65, ill health benefits will be payable as follows:

- if the employer determines there is no reasonable prospect of the member obtaining gainful employment before age 65 the member's benefits are calculated on accrued membership plus 100% of the membership the employee could have attained between leaving and age 65
- if the employer determines there is a reasonable prospect of the member obtaining gainful employment before age 65 the member's benefits are calculated on accrued membership plus 25% of the membership the employee could have attained between leaving and age 65

Where a member is in part-time service, the period of enhancement is calculated as if the member had remained in that part time employment until age 65.

If, in the case of a person who was a member before 1 April 2009, the period of enhancement is less than the period that would have been granted had regulation 27 of the LGPS (Scotland) Regulations 1998 continued in force, the member's benefits are to be calculated on that higher period.

Gainful employment means paid employment for not less than 30 hours in each week for a period of not less than 12 months.

The third tier will exist outside the LGPS; employers will be able to make a one-off discretionary lump sum payment. The one-off lump will be calculated as one week's pay for each year of service and will be limited to a maximum of 30 weeks' pay. The third tier will cover those members whose employment is terminated on capability grounds, who are not in receipt of ill-health benefits and who have a reasonable prospect of undertaking further gainful employment before age 65. The appropriate regulations are expected to be issued later this year.

Where a member's rate of pay is reduced (or the date at which it may be increased is restricted) due to ill health, the member can request a certificate of protection of pension benefits. The employing authority may issue a certificate without an application from the member, but need not issue a certificate if the member does not apply for one within 12 months of the reduction or restriction in pay.

Regulation 20 of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations does not cover those members who have less than two years' total membership and who have not transferred in any other pension rights to the LGPS. Such members will be entitled to a refund of contributions (less the appropriate reductions) or to transfer their benefits from the LGPS (Scotland) to another scheme.

Overriding Legislation – Sex Discrimination Act 1975 (Amendment) Regulations 2008

The Secretariat has received a number of queries with respect to the above Amendment Regulations which appear to require employers to continue paying pension benefits for employees who are absent on unpaid maternity leave. However, the position is anything but clear as [government guidance](#) maintains that employers need only continue to pay pension contributions during unpaid leave if this is specified in the employee's contract of employment. The Secretariat will consider the implications of the Amendment Regulations and issue a Circular in due course providing advice to employers and administering authorities.

Overriding Legislation - Pensions Bill 2007/08

The [Pensions Bill](#) 2007/08 was going through the Committee stage in the House of Lords until 10 July. James Purnell, the Secretary of State for Work and Pensions, announced on 5 June that the Department for Work and Pensions (DWP) intends to amend the current Pensions Bill to abolish the protected rights 'survivor's benefit' rule. Currently when an individual with a spouse or a civil partner buys an annuity, he or she must use any contracted-out rights in their pension pot to purchase a joint life annuity. The DWP maintained in their press release that a joint life annuity may not always be in a couple's best interests – where for example both partners have built up good pension pots. If the Pensions bill is so amended there will have to be checks and balances to ensure individuals are not left without adequate pension provision where one of the partner experienced significant breaks from work.

Overriding Legislation – Finance Act 2008

HMRC issued a number of [draft statutory instruments](#) and explanatory memoranda as a consequence of The Finance Act 2008. The list includes the draft version of [The Registered Pension Schemes \(Authorised Payments\) Regulations 2008](#). Part 2 of the draft legislation contains a provision in respect of members who are untraceable at age 75. Subject to certain conditions, schemes will be able to make a payment, not in excess of £2,000, which either extinguishes the member's entitlement to benefits or, if the member has died, represents the value of all assets in respect of the member. Part 2 also contains a provision allowing occupational pension schemes to make a one off de minimis payment where a member is aged 60 or over and under age 75 where the total value of payments made by all related schemes does not exceed £2,000.

Parts 3 and 4 include measures with regard to pensions paid in error, the payment of pension arrears after the member's death, pensions that (inadvertently) continue in payment after the member's death and Pension Commencement Lump Sums paid after the member's death. The effective date for parts 3 and 4 will be backdated to cover any payments made on or after 6 April 2008. The effective date for part 2 has not been confirmed.

Forced Retirement at NRD – Johns v. Solent SD (The 'Heyday' Case)

The case of Johns v Solent SD is important for everyone who has brought a case on forced retirement, on the grounds of age, since October 2006.

Mrs. Johns was forced to retire by her employer in March 2007. She challenged their decision and won the right for her case to be put on hold until the law is clarified. Solent, her employer, brought the case to the Court of Appeal to reverse this decision. After a short deliberation, the Court of Appeal judges found in favour of Mrs. Johns without even hearing the submission of her barrister. After Mrs Johns won her Employment Appeals Tribunal, the President of the Employment Tribunals ordered all similar cases to be put on hold until the outcome of the 'Heyday' legal challenge to the UK Age Regulations.

As a result, older workers who are forced to retire will continue to have their Employment Tribunal Appeal cases put on hold pending the outcome of a legal challenge to the UK Age Regulations. If the 'Heyday' case wins, people forced to retire will be able to claim compensation for age discrimination and unfair dismissal.

The 'Heyday' case against the Government has been brought as a judicial review in the High Court by the National Council on Ageing. Age Concern and Heyday are names under which the National Council on Ageing operate. Heyday argues that the UK Government has improperly implemented the EU directive upon which the Age Regulations were based. The High Court challenge has been referred to the European Court of Justice (ECJ) where there was a hearing on 2 July 2008. The ECJ expects to publish its judgement before the end of the year.

Audit Commission Code of Data Matching

Following a wide-ranging consultation, the Audit Commission has prepared and published the Code of Data Matching Practice 2008 as required by section 32G of the Audit Commission Act 1998. This was laid before Parliament on Monday 21 July 2008 and is effective from that date. [The Code of Data Matching Practice 2008 is available on the Commission's NFI website](#) .

The objective of the Code is to help ensure that the Commission and its staff, appointed auditors and all persons and bodies involved in the Commission's data matching exercises comply with the law, especially the provisions of the Data Protection Act 1998. All bodies conducting or participating in the Commission's data matching exercises must, by law, have regard to the Code. It is also intended to promote good practice in data matching and to let individuals know why their data is matched and by whom, the standards that apply and where they can find further information.

[The Audit Commission's response to the consultation on the draft Code](#) has also been published and is available. This document explains the key revisions made to the draft Code as a result of the consultation, and the Commission's response to common issues raised.

Questions about the Code or data matching generally can be emailed to nfiqueries@audit-commission.gov.uk.

Bits and Pieces

LGPC Circulars

In addition to Circular 212 (which has been mentioned earlier in this Bulletin), the LGPC simultaneously issued [circulars 213 and 214](#). The former was published in respect of the public sector workers strike planned for 16 and 17 July. The latter included a questionnaire on the provision of benefits for councillors across England, Wales and Scotland. It also served notice that Circular 214 will be the last one which LGPC will issue by post to authorities and other clients.

Timeline Regulations

The LGPC have compiled a schedule of the updates required to the Timeline Regulations for England and Wales together those required for Scotland. In addition to correcting the odd typographical error and inserting missing hyperlinks, the following changes are required:

- update of The LGPS (Benefit, Membership and Contribution) Regulations 2008 (SI 2007/1166) to reflect the amendments in SI 2008/1083;
- upload the LGPS (Transitional Provisions) Regulations 2008 (SI 2008/238);
- upload the LGPS (Transitional Provisions) Regulations as amended by SI 2008/1083;
- upload the LGPS (Administration) Regulations (SI 2008/239);
- upload the LGPS (Administration) Regulations as amended by SI 2008/1083;
- create a version of the LGPS Regulations 1997 as amended by SI 2008/238; and
- upload a version of the LGPS Regulations 1997 as amended by SI 2008/238 and SI 2008/1083.

The plan is to have the three sets of regulations for the new look scheme loaded in the same area within the timeline regulations. Every time one of the Benefit Regulations, the Transitional Provisions Regulations or Administration Regulations is amended a new version of all three sets of the Regulations will be created and uploaded.

There will be a variety of other amendments to the Timeline Regulations website. The GMP Increase orders are also going to be added to the Timeline Regulations and will be located in the same area as the Pension Increase (Review) Orders. The GAD guidance section will be updated as GAD have issued several items since 1 April 2008 as required under the new scheme regulations. A new area will be created which will contain any Statutory Guidance which is issued. For example, the Statutory Guidance on ill-health will be uploaded as soon as it is published together with the ill health FAQ document which CLG have agreed to issue in response to the questions raised by practitioners.

In the Scottish section, various amendments are required to the hyperlinks in the SSI 2005/293 version of the regulations. The amendments will need replicating in the version of the regulations after SSIs 2005/315, 2005/554, and 2006/123. New versions of the regulations will be created to include the amendments introduced by SSIs 2006/468, 2006/514, 2007/71 and 2007/514.

As with England and Wales, a separate area will be created to hold the new-look scheme regulations: the LGPS (Scotland) (Administration) Regulations 2008 (SSI 2008/228), the LGPS (Scotland) (Transitional Provisions) Regulations 2008 (SSI 2008/229) and the LGPS (Benefit, Membership and Contributions) Regulations 2008 (SSI 2008/230).

The Statutory Guidance issued by SPPA on how to assess a member's contribution rate will be uploaded on to a separate area. The section on GAD guidance for Scotland will be brought up to date and the GMP Increase orders will also be added to the Scottish part of the Timeline Regulations.

The LG (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 section requires a number of corrections to version SSI 2005/554. Further versions will be created to incorporate the amendments in SSI 2006/609 and 2007/514.

Qualifying Recognised Overseas Pensions Schemes (QROPS)

HMRC issued an [updated list of QROPS](#) on 23 June 2008. HMRC remind administrators of Registered Pension Schemes that the list only includes those QROPS who have granted permission to have their details published.

Pension Schemes Online – A Guide to Using the Online Service for Pension Scheme Administrators and Practitioners

HMRC have updated the above guide. [The new version](#), dated July 2007, is available on the HMRC website

SIPPs can hold Protected-Rights from October 2008

[In an announcement on 27 June 2008](#) the Government stated that they plan to bring regulations into effect from 1 October 2008 that will permit Self Invested Personal Pensions (SIPPs) to hold protected rights. [The HMRC website contains further information.](#)

Information for Pensioners

As part of an ongoing review of Government websites, HMRC has improved a number of its web pages. The page which provides [information for pensioners](#) has recently overhauled. The site contains links to information on tax, National Insurance contributions and how pensioners can prepare to pass on money and property efficiently.

Equitable Life

The Parliamentary Ombudsman has issued her report "[A Decade of Regulatory Failure](#)" calling for the Government to establish and fund a compensation scheme, with a view to assessing compensation for those who have been affected by maladministration caused by failings in the regulation of the Equitable Life. Such a scheme should be established within six months of any decision by the Government and Parliament to do so and should complete its work within two years of being set up. However, Parliament is not likely to debate the issue until after the Summer recess.

Reminders

The closing date for responses to the consultation on the draft ill-health Statutory Guidance is 12 August 2008 and the closing date for comments on the draft Statutory Guidance on Government Compliance Statements is 5 September 2008.

Legislation

Bulletin 51 detailed the legislation which had been promulgated since the beginning of this year for pensions' practitioners in the UK. This bulletin details the legislation that has been promulgated in the UK since bulletin 51 plus one Statutory Instrument which was omitted in error. The Scottish Statutory Instruments and Statutory Rules for Northern Ireland, which have been promulgated since the start of this year, have also been listed below.

United Kingdom

SI Reference Title

2008/656	The Sex Discrimination Act (Amendment) Regulations 2008
2008/1432	The Financial Assistance Scheme (Miscellaneous) Provisions Regulations 2008
2008/1588	The Taxation of Chargeable Gains (Gilt-edged Securities) Order 2008

Scotland

SSI Reference Title

2008/92	The National Health Service (Superannuation Scheme, Injury Benefits, Additional Voluntary Contributions and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008
2008/160	The Firefighters' Pension Scheme (Scotland) Order 2007 Amendment Order 2008
2008/161	The Firefighters' Pension Scheme Amendment (Scotland) Order 2008
2008/224	The National Health Service Pension Scheme (Scotland) Regulations 2008

2008/225	The National Health Service Superannuation Scheme (Additional Voluntary Contributions, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008
2008/226	The National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2008
2008/227	The Teachers' Superannuation (Scotland) Amendment Regulations 2008
2008/228	The Local Government Pension Scheme (Administration) Regulations 2008
2008/229	The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
S2008/230	The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008

Northern Ireland

SR Reference Title

2008/47	The Employment Rights (Increase of Limits) Order (Northern Ireland) 2008
2008/50	The Teachers' Pensions (Miscellaneous Amendments) Regulations (Northern Ireland) 2008
2008/65	(C.1) The Pensions (2008 Act) (Commencement No. 1) Order (Northern Ireland) 2008
2008/69	The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 2008
2008/84	The Guaranteed Minimum Pensions Increase Order (Northern Ireland) 2008
2008/92	The Social Security Benefits Up-rating Order (Northern Ireland) 2008
2008/96	The Health and Personal Social Services (Superannuation Scheme and Compensation for Premature Retirement) (Amendment) Regulations (Northern Ireland) 2008
2008/97	The Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations (Northern Ireland) 2008
2008/104	(C.4) The Pensions (2005 Order) (Commencement No. 11) Order (Northern Ireland) 2008
2008/116	The Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008
2008/117	No. 117The Occupational Pension Schemes (Non-European Schemes Exemption) Regulations (Northern Ireland) 2008
2008/120	The Social Security Pensions (Low Earnings Threshold) Order (Northern Ireland) 2008
2008/121	The Social Security Revaluation of Earnings Factors Order (Northern Ireland) 2008
2008/123	Pensions Increase (Review) Order (Northern Ireland) 2008
2008/130	The Health and Personal Social Services (Superannuation Scheme, Injury Benefits, Additional Voluntary Contributions and Compensation for Premature Retirement) (Amendment) Regulations (Northern Ireland) 2008
2008/132	The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations (Northern Ireland) 2008
2008/144	The Occupational Pension Schemes (Levy Ceiling) Order (Northern Ireland) 2008
2008/145	The Occupational Pension Schemes (Levies) (Amendment) Regulations (Northern Ireland) 2008
2008/146	The Pension Protection Fund (Pension Compensation Cap) Order (Northern Ireland) 2008

2008/159	The Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2008
2008/163	The Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 2008
2008/178	The Occupational Pension Schemes (Employer Debt: Apportionment Arrangements) (Amendment) Regulations (Northern Ireland) 2008
2008/238	The Firefighters' Compensation Scheme (Amendment) Order (Northern Ireland) 2008.

Useful Links

[The LGE Pensions](#)

[The LGPS members' website](#)

[LGPS Discretions](#) lists all the potential discretions available within the LGPS in England and Wales.

[Qualifying Recognised Overseas Pension Schemes](#) approved by HMRC and who agreed to have their details published.

[Tax Guide \(Version 10\)](#) - Please note that administrators should, for the time being, still refer to version 9 if the query is in respect of trivial commutation.

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Distribution sheet

Pension managers (internal) of administering authorities
Pension managers (outsourced) and administering authority client managers
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