Local Government Employers

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 77 – December 2010

This month's Bulletin contains a number of general items of information.

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. LGPC contacts can be found at the end of this Bulletin.

This month Bits and Pieces includes an item on the Timeline Regulations.

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Contribution bandings from April 2011

On the basis that the index to be used for benefits from 1 April 2011 is the September 2010 CPI figure of 3.1% published in October 2010 the following pay ranges will apply to contribution rates from next April.

Whole time equivalent pay range	Employee contribution rate
£0 - £12,900	5.5%
£12,901 - £15,100	5.8%
£15,101 - £19,400	5.9%
£19,401 - £32,400	6.5%
£32,401 - £43,300	6.8%
£43,301 - £81,100	7.2%
More than £81,100	7.5%

Acceleration in increase of SPA to age 66 – correction to Bulletin 76

In Bulletin 76 the fourth entry in table 1 of the article on the acceleration in the increase of SPA to age 66 should have read

6th March 1954 to 5th April1954	6th March 2020

The Government's Independent Public Service Pensions Commission

The Local Government Association (LGA) has submitted a response to the Independent Public Service Pensions Commission's request for further evidence. The key points in the response are summarised below:

- the LGA supports the Government's commitment to a form of a defined benefit scheme;
- the design of the new scheme should be kept as simple as possible;
- the LGA is not in favour of either defined contribution or hybrid schemes;
- the LGA recommends a Career Average Earnings Scheme with CPI indexation;
- the core benefits package should be kept simple but there should be facilities available for members to increase their benefits;
- the LGA does not support either a cap on pensionable pay for high earners or a restriction on pension levels;
- the normal pension age should be linked to the state pension age;
- any new pension arrangements should apply to both existing and new members;

- ‘old’ scheme benefits should be treated as a deferred benefit at the date the ‘old’ scheme is closed, and those deferred benefits should subsequently be increased in line with an appropriate index;

- adequate time must be given for the reform of the LGPS to be delivered in terms of the necessary amendments to software systems, training of pensions staff and communication to scheme members;

- the LGPS should remain a funded scheme;

- Fair Deal should be retained but on a simplified basis;

- in principle, the LGA supports the idea of allowing new employees from other areas of the public sector to join a funded public service scheme provided there is a categorical assurance that no additional costs would be imposed on employers and local tax payers; and

- the LGA is against imposed consolidation of LGPS administration and / or the number of LGPS funds.

In terms of the recommendations that are to emerge from phase 2 of the Commission’s review the LGA believes they should:

- not impose a detailed ‘one size fits all’ solution on individual schemes;

- provide a strategic policy framework within which the public service schemes can conduct their own reforms with full recognition given to their occupational, financial, governance and administrative contexts;

- recognise in full the individual distinctiveness of each scheme, including their pay and occupational / gender characteristics;

- make simplicity a major objective; and

- recognise the already strong localist credentials of the LGPS and the distinctiveness of the funded LGPS from the unfunded and notionally funded public service pension schemes.

LGPS 2008 – GAD actuarial transfer and ARC factors

On 13 December, DCLG issued version 3.1 of the GAD actuarial factors for individual Club and cash equivalent transfers. This latest version includes the factors required for inward non-Club transfers. The accompanying covering email from DCLG stated:

> *“The revised factors come into effect on 1 October 2010 and should be used for all Club (incoming and outgoing) and non-Club outgoing transfer calculations from this date.”*

The covering email fails to state what administering authorities should do for those cases where they have processed actual inward non-Club transfers since that date using the

previous inward non-Club transfer factors. One option administering authorities might consider is to re-process the service credit calculation but using the new factors. If the subsequent service credit is greater, a revised service credit could then be awarded.

The Technical Group discussed the revised GAD guidance at its meeting on 16 December.

The Technical Group unanimously agreed that what was needed was a clear statement from DCLG that, as from a specified date, **all** transfers in should:

(a) purchase a 60th service credit;
(b) be based on an NRD of age 65 (with a full 5 year percentage reduction adjustment);
(c) count as Part D membership; and
(d) the service credit should not count towards the 85 year rule (where the person had been a member of the LGPS prior to 1 October 2006).

This would also require an amendment to Schedule 1 of the LGPS (Transitional Provisions) Regulations 2008 to disapply regulations 122(6C) and 122(6D) of the LGPS Regulations 1997 and an amendment to paragraph 3(1)(b) of Schedule 2 to the LGPS (Transitional Provisions) Regulations 2008 to provide that the transfer credit does not count towards the 85 year rule. The GAD transfer guidance would also need to be amended to reflect this.

On 23 December, DCLG issued a letter confirming that:

- interfund adjustments where the request to transfer was made prior to 1 October 2010 should be paid based on the pre 1 October 2010 factors;
- the reason that there are no 1/80th non-Club transfer-in tables is that, from the date of issue of the letter, and for all cases involving new joiners since 1 October or the extension of the 12 month period, Funds should use the 1/60th factors in all cases and explain – in particular where an extension has been sought – that this is the method which will be used; and.
- factors to deal with ARC payments are still subject to GAD clearance.

Whilst the letter has sought to cover (a) and (b) above, it has not addressed (c) or (d) in any way (nor given any assurance about the two sentences under (d) above). The LGPS (Transitional Provisions) Regulations 2008 have saved regulation 122(6C) of the LGPS Regulations 1997. That regulation says that for a person who was an active member of the LGPS immediately prior to 1 April 2008 the transfer in shall be treated as pre 2008 membership. That would mean that it should purchase an 80th service credit, be calculated using a CRA that takes account of the 85 year rule (if the person had been a member of the LGPS prior to 1 October 2006), and count as Part A membership. The cases this would apply to (which we will term "protected members") are those where:

(i) a person was in the Scheme prior to 1 October 2006 and the employer agrees to extend the normal 12 month time limit for a transfer in election; and

(ii) a person was in the Scheme prior to 1 October 2006, leaves to work elsewhere, returns to local government, elects to combine the 2 periods of LGPS membership and elects within 12 months of returning to the LGPS to transfer in the non-LGPS pension rights in respect of the period of employment elsewhere.

Clearly, if administering authorities simply follow the letter from DCLG and calculate a service credit for a "protected" member based on 60ths and an NRD of 65 (with a full 5 year percentage reduction adjustment) this:

- would appear to be counter to the requirements of saved regulation 122C of the LGPS Regulations 1997; and
- would normally give a larger service credit than if it was based on 80ths pension with a 3/80ths lump sum and a CRA earlier than age 65. The effect will be to drag forward the CRA of the protected member to a date earlier than seems appropriate.

The LGPC Secretariat has raised these points with DCLG and GAD.

LGPS 2008 – Early payment of pension credit members' benefits

Regulation 3 of the LGPS (Miscellaneous) Regulations [SI 2010/2090] amended regulation 154 of the LGPS Regulations1997 to permit pension credits members to elect to receive their benefits before age 65 (as long as they have attained the age of 60). The amendment came into force on 30 September 2010 but had retrospective effect from 6 April 2009, being the date The Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 [SI 2009/615] made amendments to the Pension Sharing (Pension Credit Benefit) Regulations 2000 (SI 2000/1054), to give effect to a general relaxation in the rules relating to pension credit members.

The Secretariat believes the reason the amendment was backdated in the LGPS was to cover those authorities that had acted on the DCLG sanctioning letter of 7 October 2009. However, even in cases where the authority did not so act, there is nothing in the amendment that prevents a retrospective application being made now for payment on or after 6 April 2009 (provided the member is aged 60 or over). Contrast this with regulation 93(2)(a) of the LGPS Regulations1997 which quite clearly states that a pension under regulation 31 can only be paid from the date of election.

If a Pension Credit member elects for payment (retrospectively) then the administering authority would have to have regard to regulation 94 of the LGPS Regulations 1997 (interest payments).

The LGPS (Miscellaneous) Regulations 2009 [SI 2009/3150] Correction Slip

The Stationery Office has issued a correction slip for the LGPS (Miscellaneous) Regulations 2009 [SI 2009/3150]. It corrects two errors in the original SI. Sub-paragraph (c) in the previous definition for "employing authority" in regulation 2 of the LG (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 is now deleted and the order of the sub-paragraphs in regulation 12B of the Benefits Regulations has been corrected. The appropriate amendments have been made to the Timeline Regulations website.

LGPS 2008 – third tier ill-health review: member awarded second tier ill-health benefits

Where a member is moved from tier 3 to tier 2 at the review of third tier ill-health benefits, the tier 2 benefits are payable from the date the employer determines to move the member from tier 3 to tier 2. However, no additional lump sum will be payable. A move from tier 3 to tier 2 could have tax implications (see Q15 and Q28 of the FAQs document which is stored

on the Statutory Guidance/FAQs webpage for England and Wales on the Timeline Regulations.)

If an employer decides to uplift a member from tier 3 to tier 2 utilising regulation 20(11)(a) of the Benefit Regulations, then the employer is making a determination under regulation 20(3) of the Benefit Regulations. Regulation 20(3) says that an award under tier 2 shall include an enhancement equal to 25% of the potential membership from the date of leaving to age 65. The increased pension (i.e. the pension based on actual membership plus 25% of potential membership from leaving to age 65) is then payable, as per regulation 20(11)(b), from the date of the decision to uplift to tier 2 ill-health benefits.

Where regulation 20(13) applies, the amount of enhancement is calculated as per regulation 28 of the 1997 Regulations.

Even though the member has received some tier 3 benefits the Secretariat does not believe this means that regulation 20(13)(c) then debars the member from the protection under the 1997 Regulations. The Secretariat's reasoning is that although the move from tier 3 to tier 2 does not occur until the employer determines to move the member from tier 3 to tier 2, the enhancement is calculated as at the date of leaving. As at the date of leaving the member had not received any benefits. So it is reasonable (and equitable) to apply the 1997 Regulations protection to such a member.

The net result is:

(a) the amount of enhancement is to be calculated under the 1997 Regulations as at the date of leaving, and

(b) the amount of pension as so calculated is then to be paid as from the date of the decision to move the member from tier 3 to tier 2

The Consumer Prices Index (CPI)

The Office of National Statistics ONS) are reviewing the CPI with the possibility of incorporating a new element, based on owner-occupier's housing costs, perhaps creating a new CPI. The Government's Consumer Prices Advisory Committee has issued an annual report which details the options available.

The Pensions Minister, Stephen Webb MP, covered the subject of the switch to CPI in his speech to the House of Commons on 8 December 2010. The Minister announced that the DWP had decided against amending the legislation to assist schemes (which have explicit RPI references in their scheme rules) to switch to CPI revaluation and indexation. The Minister explained the Government's justification for this decision by stating:

> *"that members' trust in schemes and the scheme rules could be severely damaged if we intervened to give schemes the power to change their rules when the scheme does not already have such a power. Trust in pensions is important and I believe that intervention demands strong justification."*

Please see the article in this Bulletin on the DWP consultation in respect of switching indexation to CPI for further information.

15 MPs have signed Early Day Motion 1032 which was tabled by John Robertson the MP for Glasgow North West. The MPs want the review of CPI to be completed before any change in indexation. The motion reads:

> *"That this House notes the Government's proposal to use the Consumer Price Index (CPI) rather than the Retail Price Index (RPI) for the price indexation of benefits, tax credits and public service pensions; further notes that the CPI is consistently lower than the RPI; expresses concern over the impact that this will have on the incomes of pensioners and other vulnerable groups; recognises the concerns held by the Royal Statistical Society and the UK Statistics Authority that CPI excludes many housing costs which are borne by the majority of pensioner households; and calls on the Government to take these concerns into account and postpone the change from RPI to CPI until the appropriateness of CPI as a measure of price increases borne by pensioner households can be fully evaluated."*

Age discrimination retirements

The LGE's Employment Relations Unit Advisory Bulletin number 571 contained an article on an Employment Appeal Tribunal (EAT) ruling in the case of Woodcock v Cumbria Primary Care Trust (UKEAT 0489/09). The EAT upheld the finding that the employer was justified in giving notice to dismiss an employee to take effect before his 50th birthday to avoid the costs of the windfall to the employee of receiving enhanced retirement benefits.

The key facts in the case are:

- Mr Woodcock's contract of employment contained a 12 month period of notice;
- as a result of a reorganisation announced in 2005, the number of PCTs in the North West region was to reduce and Mr Woodcock's post was to disappear with effect from 1 October 2006. Mr Woodcock was seconded to an interim post as part of the transition to the new structure;
- in July 2006, Mr Woodcock was informed he was unsuccessful in his application to be a chief Executive in one of the new PCTs and he continued in his interim post;
- in October 2006, Mr Woodcock's employment transferred to Cumbria Primary Care Trust ("the PCT") and although his interim role came to an end, he then undertook a number of interim projects for other NHS trusts.
- in 2007, the PCT wanted to terminate Mr Woodcock's employment as Mr Woodcock was due to turn 49 on 17 June 2007. In view of the twelve-month notice period in the contract of employment, if he were not given notice of his dismissal before 17 June 2007, Mr Woodcock would be 50 at the date of his redundancy and would be entitled to take retirement on enhanced terms, which would cost the trust between £500,000 and £1,000,000;
- before a meeting due to be held on 6 June meeting (which was the first formal consultation meeting) the PCT therefore issued a notice of his dismissal on 23 May, which would expire while Mr Woodcock was still 49.

The Employment Equality (Age) Regulations 2006 (the Regulations) and the similar provisions carried forward to the Equality Act 2010 permit direct age discrimination as long as an employer can objectively justify such direct discrimination. To do this an employer must be able to show that the treatment was a proportionate means of achieving a legitimate aim.

Following his dismissal, Mr Woodcock brought an employment tribunal claim, including a claim of age discrimination. The employment tribunal dismissed Mr Woodcock's claim of age discrimination holding that the PCT's decision to dismiss him when it did was justified.

The tribunal found that the PCT had a legitimate aim for dismissing Mr Woodcock when it did, which was to avoid additional costs and him receiving a windfall, in the form of an enhanced pension. Having identified the aim, the tribunal then found that the PCT's actions were proportionate, taking into account the fact that his dismissal had already been delayed and no alternative job had been found.

Mr Woodcock appealed against the employment tribunal's ruling. The EAT rejected the appeal.

The EAT found that in the particular circumstances of this case, the employment tribunal was entitled to find that the PCT was justified in depriving Mr Woodhouse of a consultation meeting by accelerating the giving of notice. The PCT had already extended the redundancy process and at the time that the redundancy situation first arose, Mr Woodhouse could have no legitimate expectation that he might still be employed on his 50th birthday.

Even though in this case the EAT questioned the position that cost grounds alone are incapable of justifying discrimination, that position still remains in place.

Therefore, authorities who are putting in place actions that may amount to direct age discrimination and/or indirect discrimination on any of the protected characteristics, should not rely on costs alone as justification for their decisions. However, as this case shows, in many cases there will be factors other than cost that allow the employer to justify its decision. In this case Mr Woodcock stood to gain a windfall from the further delay to his redundancy.

This case should also be contrasted with another EAT's decision in the case of London Borough of Tower Hamlets v Wooster, in which the EAT found there was age discrimination where the council failed to properly explore redeployment opportunities for an employee, as it wanted to dismiss him when he was 49 and not entitled to an enhanced pension benefit. The essential difference in Mr Woodcock's case was that by the time notice was issued, the giving of notice had already been delayed beyond the normal timescales that Mr Woodcock could expect.

Restriction of pensions tax relief

HMRC have created a webpage entitled "How does the reduced annual allowance affect me?" The page has a brief preamble on the new annual allowance (AA) regime followed by more than 30 questions and answers in which HMRC indicate how the new regime will work.

On 30 November, HM Treasury published a discussion document entitled "Options to meet high annual allowance charges from pension benefits". The Government "plans to legislate for individuals to meet AA tax charges from their pension in Finance Bill 2011". The closing date for responses to the discussion document is 7 January 2011 with the intention that the Government will publish the draft legislation by February which will permit scrutiny of the proposed amendments to the Finance Act 2004.

The discussion sets out the guiding principles which will underpin any amendments to the current regime. These are:

- meeting any AA charges from pension benefits is not intended to offer individuals any advantages in terms of the tax charges he or she is required to pay. Permitting individuals to defer meeting the tax charges is to ensure the payment is manageable rather than the individual reducing the amount of tax charge they pay;
- the Government will collect all of the tax charges due;
- the Government wants to collect the AA tax charges as soon as possible; and
- the Government wants to minimise the administrative impact on individuals, employers, pension schemes and HMRC.

The Finance Act 2009, Schedule 35 (Special Annual Allowance Charge) (Cessation of Effect) Order 2010 [SI 2010/2939]

The Finance Act 2009, Schedule 35 (Special Annual Allowance Charge) (Cessation of Effect) Order 2010 [SI 2010 / 2939] was made on 9 December and came into force the following day. The order switches off Schedule 35 to the Finance Act 2009, which introduced the special annual allowance charge (SAAC), with effect from the tax-year 2011-12.

Schedule 35 also permitted “high-income individuals”, as defined in that Schedule, to request their schemes to refund pension contributions that they have paid which may otherwise have created a liability to the SAAC.

Schedule 35 will cease to have effect after the tax year 2010-11 save for paragraph 18 which will continue to have effect for the tax year 2011-12. Paragraph 18 covers the treatment of a contributions refund lump sum in excess of the limit specified in s205(4)(a) of the Finance Act 2004. Such refunds are not regarded as unauthorised payments and are liable to tax at the same chargeable rate which is applied to short-service refund lump sums.

DWP consultation on CPI indexation in private sector occupational pension schemes

On 8 December, DWP published a consultation document entitled “The impact of using CPI as the measure of price increases on private sector occupational pension schemes”. The consultation document is accompanied by an impact assessment. The consultation runs from 8 December 2010 to 2 March 2011 and responses must be submitted by the end of that period.

Private sector occupational pensions are statutorily required to index pensions which accrued from 1997 onwards. The statutory minimum increase has a maximum of 5% for pensions accrued between 1997 and 2005 and is capped at 2.5% thereafter. Deferred pensions are also subject to statutory minimum increases for the period between the date of leaving and the date the member attains scheme pension age. The minimum increases are capped at 5% for service accrued before 2009 and at 2.5% for service which accrued after that time.

There are 5 basic approaches to indexation in private sector schemes:

- there is no specific reference to a particular level of revaluation or indexation in the scheme rules;
- the scheme rule specify RPI;
- increases greater than the statutory minimum are permitted in the scheme rules;
- the scheme trustees have discretion over the increases to benefits; and
- for historical reasons, schemes which apply indexation by reference to the PI Act 1971.

The impact of the Government's proposed changes to indexation on individual scheme members will depend on the nature of the scheme to which the member belongs.

There will be some private sector occupational pension schemes which will want to amend their scheme rules as a response to the Government's intention to change statutory indexation and revaluation. Some of the changes (which affect future accrual) are subject to consultation under section 259 of the Pensions Act 2004. Regulation 8 of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 [SI 2006/349] lists the changes to scheme rules on which employers must consult for at least 60 days. This list currently does not include changes in the indexation or revaluation of benefits under the scheme rules. The Government proposes to add certain changes to scheme rules on indexation or revaluation to the list of changes

The DWP consultation document highlights two other areas of primary legislation which the Government intends to make amendments where there are references to RPI. Section 84(5)(b) of the Pension Schemes Act 1993 permits a scheme to revalue all of a member's pension (including the GMP) in line with uncapped RPI. The Government intends to amend this section so the specific reference to RPI is removed.

Similarly, in section 40(1) of the Welfare Reform and Pensions Act 1999 refers to RPI when prescribing the minimum increase (subject to a maximum percentage each year) that should be applied to a pension credit member's benefits. The Government intends to remove this reference as well.

DWP contracting-out consultation

The Government has published a response to its consultation on the draft legislation to abolish contracting-out for defined contribution schemes. An article in last month's Bulletin on the consultation exercise identified a possible consequence of the abolition would be to impose a ban on transfers from the remaining contracted-out defined benefit schemes to contracted-in DC schemes.

The Government has considered the replies received from stakeholders and other interested parties. It has accepted the arguments put forward as to why contracted-in DC schemes should be able to accept inward transfers from contracted-out DB schemes after April 2012. The (draft) legislation has been amended accordingly. There will be safeguards to ensure that individuals are made aware of the implications of transferring their benefits and the requirement to provide a survivor's benefit after the completion of a transfer will be removed.

HM Treasury consultation on the discount rate for unfunded public sector schemes

The Government announced in its Comprehensive Spending Review that it would consult on the discount rate which is used to set the contribution rates for the unfunded public sector schemes. On 9 December HM Treasury published the consultation document on its website.

HM Treasury's consultation document sets out:

- the impacts of a lower discount rate;
- the objectives which can be used to evaluate the different approaches to the setting of the discount rate; and
- the four options the Hutton Commission identified as possibilities for a new approach to setting the discount rate.

The document seeks views on whether there are any unidentified impacts, the objectives used to evaluate the different approaches, the approaches to setting the discount rate themselves and which approach to the discount rate should be selected.

Compulsory annuity age of 75

Bulletin 72 reported on HM Treasury's consultation on the Government's intention to change the compulsory annuity age of 75. The closing date for the consultation was 10 September 2010. HM Treasury have now published its response to all of the submissions it received during the consultation period.

The document re-iterates the five key principles under which the Government intends to reform the tax framework for retirement:

- the purpose of tax-relieved pension saving is to provide an income in retirement;
- any changes to the pensions tax rules should not reduce tax revenue for the Exchequer and should not create any opportunities for tax avoidance;
- individuals should have the flexibility to decide when and how best to convert pension savings into retirement income provided they do not exhaust savings prematurely and rely on the state for any retirement income;
- as per the "exempt, exempt, taxed" (EET) model, any pension income taken during an individual's lifetime should be taxed along with the continued opportunity to receive a tax-free lump sum; and
- on the death of an individual, any pensions savings should be taxed at an appropriate rate to recover post relief given (unless they are to provide dependants' benefits).

HM Treasury's response also contains its comments on the submissions made by respondents to the consultation in respect of the following topics:

- the level of an appropriate annual drawdown limit for capped drawdown;
- the Government's plans to reform the pensions tax framework in conjunction with the removal of the requirement to purchase an annuity by age 75;

- the appropriate level of a minimum income requirement (MIR) and how it should be adjusted for different ages;
- whether the MIR should differ for individuals and couples;
- how the level of MIR should be reviewed;
- how to minimise unnecessary burdens for individuals and industry in the assessment of MIR;
- whether there are any legislative or regulatory barriers which prevent the financial industry from providing more attractive products without incurring fiscal or avoidance risks;
- how to assist individuals to make the appropriate choices with their pensions savings in the absence of having to purchase an annuity before age 75; and
- whether the Government's proposed reforms will have any unintended consequences that will prevent the supply of annuities at attractive rates or prevent the market meeting demand for annuities.

Withdrawal of Central Government's Two-Tier Code: Implications for Local Authorities

The Cabinet Office announced on 13 December 2010 that the Code of Practice on Workforce Matters in Public Sector Service Contracts (commonly referred to as the Two-Tier Code) has been withdrawn with immediate effect. The Code applied when Central Government functions were outsourced to the private sector, and one of the main requirements of the Code was that new employees hired to work alongside ex-public sector employees who transferred to the private sector supplier, had to be provided with terms and conditions "no less favourable overall" to those applying to the ex-public sector workers.

The local government sector has its own version of the Two-Tier Code, the Code of Practice on Workforce Matters in Local Authority Service Contracts and this Local Government Code remains in place and local authorities should continue to apply it as appropriate on outsourcing contracts.

However, earlier this year, colleagues in the Department of Communities and Local Government (CLG) indicated to LG Employers that if the Central Government Code was discontinued, then Ministers in CLG would be likely to consider the implications this may have for the future of the Local Government Code. The Central Government Code has in effect been replaced with "Principles of Good Employment Practice" that apply on outsourcing, and although the principles are voluntary and sit outside the formal procurement process, details will be supplied to contractors. It may be that similar principles will be introduced in the local government sector.

Details of any developments that will affect local authorities will be available on the LGE website. In the meantime, local authorities can find further information on using the Local Government Code on the LGE website.

Basic State Pension

The Government has announced that the Basic State Pension is set to rise to by £4.50 to £102.15 per week in April 2011. This is an increase of 4.6%. The majority of working age benefits will increase by 3.1%. Most pensioners on low incomes, who currently receive the Pension Credit, will see an increase in their benefits as the guarantee credit will rise by £4.75 per week. The Government claimed that the increase in Basic State Pension was due to the triple lock of awarding the highest increase in earnings, RPI or 2.5%.

Annuity prices based on gender

EU Directive 2004/113/EC prevents discrimination on the grounds of sex in the access to and supply of goods and services. The Directive, nevertheless, did permit the setting of insurance premiums and benefits according to sex provided the provider could justify their actions with relevant and accurate data.

Advocate General Kokott has subsequently issued an opinion further to the Directive in the case of Association Belge des Consommateurs Test v. Achats ASBL and Others. Kokott finds that insurers may not charge men and women different rates for (financial) products. The advocate general argued that there are many factors in the determination of insurance risks. She further argued that life expectancy is strongly affected by the economic and social conditions of the individual concerned and pointed out that gender is a characteristics over which an individual has no influence.

As a consequence, that part of Directive 2004/113/EC which permits separate male and female prices for financial products should be declared invalid by the European Court of Justice as incompatible with the principle of equal treatment for men and women. Finally, the advocate general proposes a transition period of three years (from the date of the mooted change to directive 2004/113/EC) to allow insurance companies to produce gender-neutral annuities etc.

Bits and Pieces

Timeline Regulations

Version 3.1 of the GAD actuarial factors for individual Club transfers and cash equivalents has been added to the post 31 March 2008 GAD guidance page for England and Wales together with the letter from DCLG dated 23 December 2010.

There were a few minor amendments to the Timeline Regulations due to the publication of a correction slip in respect of the LGPS (Miscellaneous) Regulations 2010 [SI 2010/3150].

There no amendments to the Scottish section in this month’s update of the Timeline Regulations.

Legislation

United Kingdom

SI Reference	Title
2009/3150	The LGPS (Miscellaneous) Regulations 2010 (Correction Slip)
2010/2818	The Rate of Bereavement Regulations 2010
2010/2939	The Finance Act 2009. Schedule 35 (Special Annual Allowance Charge) (Cessation of Effect) Order 2010

Northern Ireland

SR Reference	Title
2010/249	The Occupational Pension Schemes (Levies) (Amendment) Regulations (Northern Ireland) 2010
2010/250	The Pensions Regulator (Contribution Notices) (Sum Specified Following Transfer) Regulations (Northern Ireland) 2010
2010/296	The Additional Paternity Leave (Adoption from Overseas) Regulations (Northern Ireland) 2010
2010/297	The Additional Paternity Leave Regulations (Northern Ireland) 2010
2010/298	The Additional Statutory Paternity Pay (Adoption from Overseas) Regulations (Northern Ireland) 2010
2010/300	The Additional Statutory Paternity Pay (General) Regulations (Northern Ireland) 2010
2010/302	The Additional Statutory Paternity Pay (Weekly Rates) Regulations (Northern Ireland) 2010
2010/407	The Rate of Bereavement Benefits Regulations (Northern Ireland) 2010
2010/410	The LGPS (Amendment No.2) Regulations (Northern Ireland) 2010

Useful Links

The LGE Pensions page

The LGPS members' website

LGPS Discretions lists all the potential discretions available within the LGPS in England and Wales, and Scotland.

Qualifying Recognised Overseas Pension Schemes approved by HMRC and who agreed to have their details published.

Tax Guide (Version 11)

The Timeline Regulations

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