Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 83 – June 2011

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

Please contact Dave Friend with any comments on the contents of this Bulletin or with suggestions for other items might be included in future Bulletins. LGPC contacts can be found at the end of this Bulletin.

This month Bits and Pieces includes an item on LGPC Communications, Circulars 249 and 250 and the Timeline Regulations.

Contents

Public sector pension schemes: employee contribution rates
LGPC Trustees' Conference 2011
LGPS: Part-time buy-back cases spreadsheet
LGPS 2008: ARC factors
LGPS Scotland: inward non-Club transfers
Auto-enrolment
Redundancy and early retirement survey 2011
GMPs and PI
DWP consultation on regulatory differences between occupational and workplace personal pension schemes
Qualifying Recognised Overseas Pension Schemes

Public sector pension schemes: employee contribution rates

On 17 June, the Chief Secretary to the Treasury, Danny Alexander, gave a speech to the Institute for Public Policy Research In which he outlined the Government's case for reforming the public service pension schemes, moving to a Career Average Revalued Earnings (CARE) Scheme, linking normal pension age to State Pension Age, and protecting accrued rights.

The Chief Secretary to the Treasury also provided information on the proposed increases in employee contribution rates to the public service pension schemes, saying that those earning less than £15,000 (whole-time) per annum will not face an increase in contribution rates while those earning £15,000 or more but less than £18,000 will face a maximum increase of 1.5%. The Government wants the contribution rate to increase by an average of approximately 3.0% across the public sector schemes, meaning that there will be much greater increases in employee contribution rates for those individuals on higher earnings.

The Government intends to implement the increased contribution rates in stages between 2012 and 2014. However, it has been reported in the Local Government Chronicle (23 June) that when questioned after the speech as to whether increases in employee contributions the LGPS could be dealt with in a different way 'Mr Alexander said arguments made by employers, unions and actuaries for the funded Local Government Pension Scheme (LGPS) to be treated differently from unfunded schemes were "something we continue to discuss"'.

In his speech to the Institute for Public Policy Research on 23 June Lord Hutton said "Ministers will, I hope, in particular listen very carefully to concerns that have been expressed about the proposed increases to pension contributions in the Local Government Pension Scheme. Employers and trade unions have put forward some substantial arguments that there might be better options open to us that can achieve the same affect without running a high risk of an increase to drop out rates. I hope these are given serious consideration."

The Prime Minister, in his speech to the LG Group annual conference on 28 June 2011 said "Of course, because it is a funded scheme, the Local Government Pension Scheme is different from other public sector pension schemes. That's why we will have a more in-depth discussion with local government unions and the TUC about how we take this into account."

LGPC Trustees' Conference 2011

The 8th Annual LGPS Trustees' Conference was held in Bournemouth on 8 and 9 June. Feedback from delegates indicates that this Trustees' Conference was one of the best and most successful held to date. The theme for the Conference was "All Change?" and every aspect of the LGPS was discussed over the two days of the conference.

The Rt Hon Bob Neill MP, Parliamentary Under Secretary of State for Communities and Local Government, delivered the keynote address. He stated that the Government is keen to improve the stewardship and transparency of the LGPS. Bob Neill added that the biggest challenge is how to implement changes to the benefit structure of the LGPS and higher employee contribution rates without causing a marked increased in opt out rates by scheme members.

Bob Claxton (LB of Wandsworth) argued that the LGPS has been tarred unnecessarily with the same brush as the unfunded public sector schemes and there was, in fact, a case to treat the LGPS differently from the unfunded public sector schemes. He argued that the LGPS was more sustainable in the long term than the PAYG schemes, particularly as the LGPS has total funds exceeding 80% of the Scheme's liabilities.

Governance of the scheme was also touched upon. The LGPS already has dedicated Pensions Committees, publishes Pension Fund Reports and issues Annual Benefit Statements. Bob Summers (chairman of the CIPFA Pensions Panel) explained that CIPFA's Knowledge and Skills Framework could be utilised as an aid to ensure that those charged with pension scheme governance have access to the skills and knowledge they require to carry out this role effectively. Bob was disappointed that the Hutton Commission did not give any recognition to the Knowledge and Skills Framework or the great strides that LGPS Funds had made over recent years in relation to good governance.

Alison Murray (Hymans Robertson) considered the funding position of the LGPS. Clearly, if the Judicial Review upholds the trade unions' arguments over the change from RPI to CPI then that will have a detrimental effect on the financial position of the LGPS. In addition, the level of redundancies, the opting out rate and outsourcing will all have potentially serious implications for the LGPS. In particular, Hymans Robertson's analysis for county councils suggests that a fall of 20% in active membership of the LGPS would lead pretty quickly to a situation where the amount paid out in benefits will exceed the level of contributions received.

Whilst the LGPS is currently on the road to recovery, Funds are maturing faster than was previously expected. In consequence, Funds may need to consider a more dynamic approach to reducing deficits.

Sion Cole (UBS) delivered a presentation on the investment perspective. He discussed the concept of a "flight plan" in which the objective is to reach a targeted funding position (usually 100%) at some point in the future. In general, it would assist LGPS funds if investment strategy decisions could be taken between meetings of the trustees. This would permit funds to take advantage of opportunities in the market more readily.

Sarah Foster (Eversheds) led the delegates through a quick summary of recent cases, Pensions Ombudsman decisions and Employment Tribunal decisions which might have implications for employers and LGPS funds. The underlying theme is that all parties should exercise care when drafting contracts, compromise agreements, paying death grants etc.

Ged Dale (Greater Manchester Pension Fund) discussed the effect of the proposed increase in employee contributions. The targeted saving is £900 million per year. Given the effect of rising inflation and the fact that employees in Local Government have not generally had a pay increase for two years, a number of scheme members are experiencing pressure on their budget. This is already leading to some increase in opt out rates and this would only be exacerbated by a rise in employee contribution rates to the LGPS.

The conference closed with a presentation by Richard Bartlett and Wendy Beaver of NEST. They set out the basic principles behind NEST, the employers' duties in respect of auto-enrolment and detailed which individuals are expected to be eligible jobholders for auto-enrolment. As discussed in earlier Bulletins the final provisions of NEST are subject to change as the Pensions Bill makes its way through Parliament. There will be an minimum salary entry level and jobholders will have to be at least age 22 to be eligible for NEST.

The Pensions Bill also contains provisions which will introduce a waiting period of three months before employers have to auto-enrol jobholders. The waiting period will be optional and not obligatory. Workers will have the right to opt in during the waiting period. DCLG and SPPA will have to decide what changes to the LGPS are necessary in order to comply with the auto-enrolment provisions.

LGPS: Part-time buy-back cases spreadsheet

As mentioned in last month's Bulletin, the Part-time buy-back calculation and interest on NI rebate spreadsheets have been uploaded to the LGPC's webpage on part-time workers. The spreadsheet will be updated on a monthly basis henceforth. The following text has been added immediately below the hyperlinks to the spreadsheets.

> *"Notes:*
>
> *(1) The settlement model uses an index relating to earnings known as the Average Earning Index (AEI) (LMNQ series). This index tracks movements in earnings for the UK whole economy, including bonuses and is seasonally adjusted. The Office for National Statistics has announced that the AEI has been discontinued as it is no longer the lead measure of short term changes in earnings and has been replaced by the Average Weekly Earnings (AWE) statistic (see the Office for National Statistics Information Note and website). The broadly equivalent AWE statistic is the KAB9 series, which follows changes in earnings for the whole economy, including bonuses, and is seasonally adjusted. The KAB9 statistic will be used in this month's and future months' settlement models.*
>
> *(2) New versions of the part-time buy-back and NI rebate spreadsheets are prepared each month by the Government Actuary. The updated versions are uploaded to the website as soon as they have been received from the Government Actuary's Department. This is generally about a week after the beginning of the month. If you enter details into the part-time buy-back spreadsheet and receive the error message - #DIV/0! - this means that the spreadsheet for the current month has not yet been uploaded and you will need to wait a few days before trying again. By then the new spreadsheet will hopefully have been uploaded."*

LGPS 2008 – ARC Factors

DCLG issued a letter on 14 June concerning the factors used to determine a member's contribution rate when paying ARCs. The letter states that administering authorities can offer ARC contracts using the factors in the existing GAD guidance. This is with the proviso that it is made clear to individuals who enter into ARC contracts that the cost may be varied and the variation in cost may be backdated to July 2010.

A copy of the letter can be found in the top section of the post 31 March 2008 GAD guidance page for England and Wales on the Timeline Regulations website.

LGPS Scotland: inward non-Club transfers

SPPA issued a letter (dated 9 June 2011) regarding service credits granted for inward non-Club transfers. The letter confirms that, for all joiners on or after 1 October 2010 or for cases involving the extension of the 12 month option period, the 1/60th factors should be used.

A copy of the letter is available from the [Administration Regulation 74 section of the post 31 March 2009 GAD guidance page] for Scotland on the Timeline Regulations website.

Auto-enrolment

The Pensions Regulator has issued [guides to workplace pensions reform].

The LGPC Secretariat will prepare:

- specific guidance for employers participating in the LGPS, with input from DCLG, and
- a 'you may have heard about this' type leaflet for employees explaining what auto-enrolment means for them.

The LGPC Secretariat intends to issue the guidance / leaflet under cover of an LGPC Circular in the autumn.

Redundancy and early retirement survey 2011

The Local Government Group is now conducting its annual survey on redundancy and early retirement schemes operated by local authorities. Further information on [the 2011 survey] is available from the LG Group website.

GMPs and PI

An administering authority has requested the view of the LGPC Secretariat on the interaction between GMPs and PI for members with an adjusted SPA. An illustrative example is set out below.

The question raised was regarding how the GMP Increase and the Pensions Increase in 2011 (awarded when the person was a pensioner aged between their old and new state pension ages) should be treated from new state pension age and thereafter i.e. in 2012 and beyond.

To quote from the enquiry "When the member reaches SPA later in the year, how should the PI that was calculated in respect of GMP be treated? Should it be split between the pre and post 88 GMP accordingly, so the part relating to the pre 88 GMP no longer attracts PI and the part relating to the post 88 GMP attracts limited PI? Or should it be added to the residual pension and attract full PI?"

The Secretariat's view is set out below (using some assumed figures) and is included in this Bulletin as it may be of assistance to other administering authorities.

GMP age of 60 in February 2011
Attains new SPA on 6 January 2012

At Feb 2011:
Total pension: £712, of which
Pre 88 GMP: £208 p.a.
Post 88 GMP: £104 p.a.
Balance of pension: £400 p.a.

On 6 April 2011 the GMP Increase Order 2011 kicks in and the post 88 GMP is increased by 3%, the pre 88 GMP is not increased, and the pension in excess of the pre and post 88 GMP is not increased

So:
Pre 88 GMP: £208 p.a.
Post 88 GMP: £104 p.a.
Post 88 GMP increase: £104 x 3% = £3.12
Balance of pension: £400 p.a.
New total pension: £715.12

On 11 April 2011 the PI (Review) Order 2011 kicks in. If the case were not an AP<GMP case the following calculation would have been performed:

Basic pension: £712, less
Pre 88 GMP: £208 p.a.
Post 88 GMP: <u>£104 p.a.</u>
Balance of pension: £400 p.a.

Increase on balance of pension: £400 x 0.26% = £1.04
Post 88 GMP increase: £104 x 3% = £3.12
New total pension: £716.16

However, because the lady has not yet attained new SPA, she is to be treated as if her AP is less than her GMP (i.e. AP<GMP). This means that on 11 April 2011 her pre 88 GMP would be increased by 0.26% (1/12th of 3.1%), her post 88 GMP would receive no further increase (because the 3% it has already been increased by is greater than 0.26% - **but if the proportionate PI had been greater than 3%, say 3.05%, then the post 88 GMP would have had the additional 0.05% PI added)**, and the pension in excess of the pre and post 88 GMP would be increased by 0.26% (1/12th of 3.1%) i.e.

Pre 88 GMP: £208 p.a.
Pre 88 GMP increase: £208 x 0.26% = £0.54
Post 88 GMP: £104 p.a.
Post 88 GMP increase: £104 x 3% = £3.12
Balance of pension: £400 p.a.
Increase on balance of pension: £400 x 0.26% = £1.04
Total pension: £716.70

This seems to tie up with Annex G of the Ministerial Direction at which says:

2. Where the Treasury make a section 59 order increasing official pensions and the amount by reference to which the increase in an official pension under that order is to be

calculated would, but for this direction, be reduced under section 59(5) of the Pensions Act by an amount equal to the rate of a guaranteed minimum pension, if at the time the section 59 order comes into force-
(a) the additional pension to which the pensioner is entitled is less than the amount equal to the weekly rate or aggregate weekly rates of the guaranteed minimum pension or pensions to which he is entitled;
the amount of that reduction shall be equal to the amount by which the pensioner=s guaranteed minimum pension has been increased by virtue of a section 109 order in the tax year in which the section 59 order comes into force, and, subject to paragraphs 4 and 5, in any such case the increase shall, in respect of any period after the order comes into force, be calculated in accordance with this direction notwithstanding section 59(5).

This would produce the following result:

Post 88 GMP increase: £104 x 3% = £3.12

Total pension: £712, less
Post 88 GMP, as increased: £107.12
Balance of pension for PI calc: £604.88 p.a.

Increase on balance of pension: £604.88 x 0.26% = £1.57

Total pension payable

Pre 88 GMP: £208 p.a.
Post 88 GMP: £104 p.a.
Post 88 GMP increase: £104 x 3% = £3.12
Balance of pension: £400 p.a.
PI on balance of pension: £1.57
Total pension: £716.69 (1p different due to rounding)

On 6 January 2012 she attains new SPA and, at that time we treat her as if her AP had become equal to or exceeds her GMP **and the GMP as at 6 January 2012 is to apply**.

This means that on 6 April 2012 the GMP Increase Order 2012 kicks in and the post 88 GMP + the original 3% PI on the post 88 GMP receive a further increase of 3% (assuming the GMP Increase for 2012 is 3%)

The pension payable would be:

Pre 88 GMP: £208 p.a.
Post 88 GMP: £104 p.a.
Post 88 GMP increase: (£107.12 x 3%) + £3.12 = £6.24*
Balance of pension: £400 p.a.
Increase on balance of pension: £1.57
Total pension: £719.81
[*Note: This figure is calculated by applying the 3% increase to the weekly GMP, not the annual GMP].

On 9 April 2012 the PI (Review) Order 2012 kicks in and

- the pre 88 GMP is not increased,

- the PI awarded in April 2011 on the pre 88 GMP receives a full years increase under the Pensions Increase (Review) Order 2012 (let's assume 4%),
- the pension in excess of the pre and post 88 GMP + the PI awarded in April 2011 on that amount of the pension receive a full years increase under the Pensions Increase (Review) Order 2012 (let's assume 4%)
- the post 88 GMP and the post 88 GMP increase are not increased

Pre 88 GMP: £208 p.a.
Post 88 GMP: £104 p.a.
Post 88 GMP increase: (£107.12 x 3%) + £3.12 = £6.24
Balance of pension: £400 p.a.
Increase in payment on balance of pension: £1.57 }
Further PI: £400 + £1.57 x 4% = £16.06 } Total PI £17.63
Total pension: £735.87

If we follow the PI (Review) Order the calculation would be:

Total pension:	£712, less
Pre 88 GMP:	£208
Post 88 GMP:	£104
Balance of pension:	£400
2011 PI:	£1.57

Increase on balance of pension: £401.57 x 4% = £16.06
Total PI: £16.06 + £1.57 = £17.63

Meaning the pension breakdown would be:

Pre 88 GMP : £208 p.a.
Post 88 GMP: £104 p.a.
Post 88 GMP increase: (£107.12 x 3%) + £3.12 = £6.24
Balance of pension: £400 p.a.
PI on balance of pension: £17.63
Total pension: £735.87

The above example shows that calculation of PI is akin to AP<GMP from the member's old SPA. When the State assumes responsibility at the member's adjusted SPA it is with a "GMP applicable date" of the adjusted SPA and not the old SPA. This is different from the normal AP>=GMP notifications.

The above represents the Secretariat's view only and confirmation will be sought from NISPI that the Secretariat's understanding is correct.

DWP consultation on regulatory differences between occupational and workplace personal pension schemes

At the beginning of the year the DWP sought views from the pensions industry to assist a review of the regulatory differences between occupational and workplace personal pension schemes. The DWP has now published its response to the evidence submitted. One of the areas the DWP were looking at was the possibility of removing the ability for schemes to give refunds to those with less than 2 years scheme membership.

DWP report that the vast majority of respondents to the consultation highlighted that removing short service refunds for Defined Benefit schemes would create additional small liabilities and that the cost of administering these small pension rights would be vastly disproportionate to the benefits. Most respondents felt that as there were so few DB schemes which are open to new members that they should be allowed to continue to offer short service refunds.

As a result of these representations the Government has agreed that any changes to short service refunds would disproportionately affect DB schemes. Therefore, any consideration of possible changes to existing short service refund rules would be for defined contribution occupational pension schemes only.

Qualifying Recognised Overseas Pension Schemes

The Secretariat has been made aware that **Incosperis 365 Pension Scheme**, a Qualifying Recognised Overseas Pension Scheme (**QROPS**) that is registered in the Netherlands, has had its **QROPS** status revoked by HMRC. The scheme was given **QROPS** approval in February this year.

Bits and Pieces

LGPC Communications

Guide to the LGPS for eligible councillors in England and Wales

The LGPC has updated the full guide to the LGPS for eligible councillors in England and Wales for April 2011. The revised version, and tracked version showing the changes made, are now on the LGE website.

LGPC Circulars

Earlier this month, the Secretariat issued Circular 249 which contained the latest, updated versions of sample ill-health certificates. The sample ill-health certificates for England and Wales have been updated to reflect the amendments contained within:

- the Local Government Pension Scheme (Miscellaneous) Regulations 2010 [SI 2010/2090];
- the Local Government Pension Scheme (Benefits, Membership, and Contributions) (Amendment) Regulations 2011 [SI 2011/561]; and
- paragraph 15(2)(k) of Schedule 3 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 [SI 2010/234].

Circular 249 also includes sample ill-health certificates for the LGPS in Scotland.

Where appropriate, the sample certificates contain a statement for the purposes of the new annual allowance test under the Finance Act 2004 (based on the amendments to that Act contained in the current wording of the Finance (No. 3) Bill 2011. If the wording in the Finance (No.3) Bill is amended before the Bill reaches the Statute Book, the Secretariat will issue a further Circular updating the sample ill-health certificates.

Circular 250 announces this year's training courses for trustees of LGPS funds on the "fundamentals" of the LGPS. The training courses cover every aspect of the LGPS including benefits, the administration of a LGPS fund and investments. Attendance at the courses will mean that delegates will be able to demonstrate compliance with the first of the six CIPFA principles referred to in the LGPS Regulations; receive educational material in line with CIPFA's Pensions Knowledge and Skills Framework for elected representatives and non-executives, and comply with those principles set out in the Pensions Act 2004 that relate to the knowledge and understanding requirements for trustees of occupational pension schemes.

Timeline Regulations

The following amendments have been made to the Timeline Regulations website this month.

England and Wales

CLG's letter (dated 14 June 2011) on ARC factors has been added to the post March 2008 GAD guidance page.

Scotland

SPPA's letter (dated 9 June 2011) on CETV factors to be used in calculations has been added to the post March 2009 GAD guidance page.

United Kingdom

The latest version of the Club Memorandum for the Public Sector Transfer Club along with the covering letter from the Cabinet Office have been added to the Public Sector Transfer Club page.

Legislation

United Kingdom

SI Reference	Title
2011/1554	The Social Security (Exemption from claiming Retirement Pension) Regulations 2011

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

LG Group Pensions Section Contact Details

Terry Edwards (Head of Pensions)

Telephone: 01954 202 787
Email: terry.edwards@local.gov.uk

Tim Hazlewood (Pensions Training & Development Manager)

Telephone: 01455 824 850
Email: tim.hazlewood@local.gov.uk

Irene Wass (Pensions - Communications Adviser)

Telephone: 01246 414 902
Email: irene.wass@local.gov.uk

Elaine English (LGPS Executive Officer)

Telephone: 0207 187 7344
Email: elaine.english@local.gov.uk

Dave Friend (Pensions Adviser)

Telephone: 01457 859 016
Email: david.friend@local.gov.uk

Alison Hazlewood (Part-time Administration Assistant - Training & Development)

Email: alison.hazlewood@local.gov.uk

Distribution sheet

Pension managers (internal) of administering authorities
Pension managers (outsourced) and administering authority client managers
Officer advisory group
Local Government Pensions Committee
Trade unions
CLG
COSLA
SPPA
Regional Directors
Private clients

Copyright

Disclaimer

The information contained in this Bulletin has been prepared by the LGPC Secretariat, a part of the LG Group. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the LG Group for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Bulletin. Whilst every attempt is made to ensure the accuracy of the Bulletin, it would be helpful if readers could bring to the attention of the Secretariat any perceived errors or omissions. Please write to:

LGPC
Local Government Group
Local Government House
Smith Square
London, SW1P 3HZ

or email: David Friend
tel: 01457 859016