Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 90 – February 2012

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 that might be included in future Bulletins. LGPC contacts can be found at the end of this Bulletin.

This month's Bits and Pieces includes an item on LGPC Communications and the Timeline Regulations.

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LGPC Bulletins

As part of a general review of the organisation's websites, as much of the content as possible will become World Wide Web Consortium (W3C) compliant. This means that in future, those documents, which are to be W3C compliant, will be uploaded to the website in the Adobe Acrobat format (i.e. 'pdf' files) only. Therefore, from this month onwards, the Bulletin will only be published as a pdf file.

LGPS 2008: new transfer factors (England and Wales)

Table 3.1 of the GAD guidance "Actuarial Factors for Individual Cash Equivalent and Club Transfers from 1 January 2012" contains conversion factors for those members who attain their CRA before age 65. The guidance does not state how conversion factors should be calculated for Group 2 members with Parts B and C membership as defined in the GAD guidance "Choice of Early Payment of Pension". Clarification has been requested from DCLG / GAD.

There will be a few cases where a member wishes to transfer out deferred benefits which will be subject to a NI Modification. The affect on the final CETV will be minimal in all probability. The same transfer factor is used for the pension component and, where relevant, the NI Modification deduction. Bulletin 73 stated that NI Modification is deducted at the member's adjusted SPA. The problem comes where the member's CRA is age 60, and is before the member's adjusted SPA. What conversion factor should be applied to the NI Modification deduction? It seems wrong to apply the same conversion factor as used for the pension element.

GAD issued a clarification on 20 February which stated:

> *". . . can confirm that conversion factors from NPA 65 should not be applied to N.I. Modification for calculating male CETVs. I suggest that the same position is adopted for females. This approach is consistent with that used for Club transfers.*
>
> *Strictly speaking, a conversion factor should be applied to N.I. Modification for females non-club CETVs (although whether this should be to age 60 or the gradually increasing female State Pension Age is an interesting point). However, given that:*
>
>> *(i) it only affects women who left LGPS service before N.I. modification was dis-applied for actives and who now apply for a CETV;*
>>
>> *(ii) their pre 31 March 1980 service for N.I. modification will be small; and*
>>
>> *(iii) not applying a conversion factor to N.I. modification will be in the member's interest,*
>
> *. . . it can be ignored for pragmatic reasons; not applying a conversion factor to female N.I. modification will have no material effect on the total transfer value. The CETV calculation should incorporate a deduction for N.I. Modification but with no conversion factor applied. However, if N.I. modification has been dis-applied for all deferred members, then it can be ignored altogether in the CETV calculations.".*

On February 23, DCLG issued version 4.1 of the "Actuarial factors for Individual Cash Equivalent and Club Transfers from 1 January 2012". This latest version includes the non-Club inward transfer factors.

LGPS 2008: GAD guidance on trivial commutations

In Bulletin 76, there was an article on trivial commutation of benefits which explained why men have to attain age 65 before they could have their pension trivially commuted if they had a GMP. The advice in the article still stands after the publication of the most recent GAD guidance on trivial commutations. This is because the LGPS uses section 148 orders to revalue the GMP. On the other hand, if the member has no GMP, then it is possible for the member to commute his pension on trivial grounds provided he is 60. This was easier to understand from the previous GAD guidance which had separate male factors for pre 88 GMP, post 88 GMP and pension in excess of GMP. Only the factor for the pension in excess of the GMP had values for ages in the range 60 to 64 inclusive.

LGPS 2008: GAD guidance on late retirement

On 15 February 2012, DCLG issued the latest version of the GAD guidance on late retirements. The guidance still only refers to regulations 17(2) and 29(5) of the LGPS (Benefits, Membership and Contributions) 2007. Thus, on the face of it, the pre 2008 guidance should still apply to employees who left pre 1 April 2008 with a deferred benefit which they defer drawing past age 65. They left with a deferred benefit under the LGPS Regulations 1997and have not been an active member since the post 2008 guidance has been issued. The Secretariat have contacted DCLG requesting a clear statement on whether or not the latest version of the Late Retirement guidance should apply to deferred members who ceased active membership before 1 April 2008 and who defer drawing their deferred benefits until after age 65..

A copy of the GAD guidance on Late Retirements is available from the Timeline Regulations.

Academies

On 22 December 2011, the Secretary of State for Communities and Local Government and the Secretary of State for Education issued a joint letter recommending that, where an academy seeks to be pooled with the local authority for the purposes of assessing their employer contribution rate to the LGPS, the request should be favourably considered.

The joint letter also said that supporting guidance would be developed and issued. The LGPC Secretariat is currently working with DCLG and DfE on that supporting guidance which will take the form of a "Frequently Asked Questions" document. Once issued, supplementary FAQs will be added to the document e.g. FAQs covering actuarial matters.

Pensions Increase

HM Treasury released a note on 7 February with respect to this year's Pensions Increase Review. Although the appropriate order is not expected to be laid before Parliament until March, HM Treasury have released the spreadsheet with the cumulative PI multipliers relevant to this year's PI Review. The spreadsheet of PI multipliers and HM Treasury's note have been uploaded to the Timeline Regulations website.

LGPS administering authorities and those employers who pay their own annual compensation benefits (relating to an award of compensatory added years or injury benefits) should note that the increase to be applied from 9 April 2012 to a qualifying pension which began (i.e. has a pensions increase date) before 11 April 2011 will be 5.2%.

LGPS administering authorities should also note that the increase to be applied from 6 April 2012 to the post 5 April 1988 Guaranteed Minimum Pension element of a pension in payment is 3.0%. This is set out in the draft Guaranteed Minimum Pensions Increase Order 2012.

Redundancy Payments

The Employment Rights (Increase of Limits) Order 2011 [SI 2011/3006] came into force on 1 February 2012. It increased the maximum "week's pay" for calculating a statutory redundancy payment from £400 per week to £430 per week where the appropriate date falls on or after 1 February 2012. In the case of entitlement to a redundancy payment by virtue of section 135(1)(a) [dismissal by reason of redundancy] or section 135(1)(b) [lay-off or short time] of the Employment Rights Act 1996, the appropriate date means the relevant date as defined by, respectively, sections 145 or 153 of that Act.

The Automatic Enrolment (Miscellaneous Amendments) Regulations 2012

The Automatic Enrolment (Miscellaneous Amendments) Regulations 2012 [SI 2012/215] were laid before Parliament on 1 February 2012.

Part 2 of SI 2012/215 amends the Employers' Duties (Implementation) Regulations 2010 [SI 2010/4]. The amendments to those regulations include:

- a minor alteration to the definition of a "PAYE scheme"
- extension of the transitional periods under sections 29 and 30 of the Pensions Act 2008 to four years four months; and
- changes to the regulation with respect to early automatic enrolment.

Employers can choose a date earlier than their staging date and can choose 1 December 2012 or, if the employer has 50,000 or more employees on their PAYE scheme, the employer can select a staging date of 1 July, 1 August or 1 September 2012. The Pensions Minister, Steve Webb, published a written ministerial statement on 25 January on the latest changes to the automatic enrolment timetable. The statement has a table at the end which details the new staging date for all sizes of employees and the staging dates for new employers who commence trading from 1 April 2012 onwards.

Part 3 of SI 2012/215 amends the Employers' Duties (Registration and Compliance) Regulations 2010 [SI 2012/5]. The changes made include

- SI 2012/5 comes into force on 1 July 2012 on the date the amendments made by SI2012/215 come into force;
- an amendment to the definition of an “employer pension scheme reference”;
- an extension to the date an employer must provide information to the Pensions Regulator after the employer’s staging date (extended from 3 to 4 months after the staging date);
- inserts a new requirement with respect to records kept by employers where the employer gives an employee notice of postponement or disapplication of automatic enrolment;
- amendments to the terms regarding escalating penalty notices for failure to comply; and
- changes to the regulations on penalty notices where employers have contravened section 50 of the Pensions Act 2008 on prohibited recruitment conduct.

Part 4 of SI 2012/215 amends the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI2010/772]. The changes include amendments with respect to:

a) the information an employer must supply to a jobholder
b) the information an employer must supply to a jobholder on becoming an active member of a qualifying scheme on or after the staging date for that employer,
c) automatic re-enrolment dates, and
d) the rules governing jobholders who are excluded from automatic re-enrolment.

Regulation 48 of SI 2010/772 amended regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 [SI 1996/1715] (prescribed time within which an employer . As a result of regulation 40 of SI 2012/215 amends the prescribed time in which an employer must makes payments to trustees or managers of pension scheme from 19 days after the end of month in which contributions were deducted to 22 days (provided the payment is made electronically) If payment is made by any other means, the payover period remains 19 days.

The Pensions Regulator has updated their automatic enrolment detailed guides.

Combined Pension Forecasts

DWP has updated its software to incorporate the changes to the State Pension Age contained in the Pensions Act 2011. As a result, Combined Pension Forecasts are set to recommence later this year. The way schemes submit requests for Combined State Pension forecasts will not change under the updated system.

The new version will still provide scheme members with estimates of their State Pensions (based on their current NI records) but it will not project a potential State Pension on assumed future NI contributions. The Combined State Forecast will only provide information on how individuals’ current State Pensions may change according to any future NI contributions which they may make.

Any LGPS fund which has any further questions or wishes to schedule a submission of its files should telephone Kath Watson on 0191 218 2357 or email her directly.

Annuities: the open-market option

The Association of British Insurers (ABI) issued a draft Code of Conduct at the end of last year. The intention behind the Code is:

a) to ensure that scheme members obtain a better deal when it comes to purchasing annuities at retirement, and

b) to ensure that scheme members understand the retirement process, the different types of retirement income available and how to select the product they wish to buy along with the appropriate provider.

The key is to improve the information provided to customers by ABI members. The draft Code requires that ABI members will no longer send an annuity application form in the communications sent to individuals who will be retiring shortly. The intention is to encourage individuals to shop around more providers before deciding on the annuity they wish to purchase.

The NAPF have made three suggestions to improve the draft Code of Conduct to ensure individuals obtain the best possible income in retirement. The Code of Conduct should:

- encourage pension providers to disclose information on retention rates and pricing practices. The improvement in the operation of the open-market option will be assisted if the compliance with the Code of conduct is monitored;

- encourage providers to direct individuals to a specialist annuity advice and brokerage service to make the open-market option the default; and

- if the point above is not possible, have a minimum requirement to provide a list of specialist annuity brokers. This will permit scheme members better access to the annuity market in general.

In addition, NAPF believe the ABI should monitor the impact the Code of Conduct has on individuals' actions when seeking retiring income. The ABI should publish their analysis to determine whether or not individuals understand the term "shopping around" and whether they are actually doing so.

NAPF research indicates that individuals can lose more than 10 per cent of their potential retirement income where they fail to locate the best annuity rate. If the individual suffers from ill-health, the loss of potential income is even greater and varies according to the severity of the customer's ill-health. Clearly, if an individual's health, at the point of retirement, is expected to give him or her a shorter life then the member should obtain a better annuity rate.

Bits and Pieces

LGPC Communications

Pension Funds are requested to check their Fund's contact details held on the LGPS members' website www.lgps.org.uk under "Contact Us".

If the details are out of date or require amending, please send the updated information to Irene Wass at irene.wass@local.gov.uk.

Remember - this is the contact information for scheme members to use.

Timeline Regulations

England and Wales

The latest version of the GAD guidance on late retirements, which DCLG issued on 15 February 2012, has been added to the post 31 March 2008 GAD guidance page. Version 4.1 of the Actuarial Transfer Factors for Individual and Club Transfers (dated 22 February 2012) together with the associated covering letter from CLG have been added to the post 31 March 2008 GAD guidance page.

United Kingdom

The spreadsheet of PI multipliers and HM Treasury’s note for the April 2012 Pensions Increase review have been uploaded to the Pensions Increase Review Orders page.

Legislation

United Kingdom

SI Reference	Title
2012/187	The Social Security Pensions Revaluation of Earnings Factors Order 2012
2012/188	The Social Security Pensions (Low Earnings Threshold) Order 2012
2012/189	The Social Security Pensions (Flat Rate Accrual Amount) Order 2012
2012/192	The Police (Amendment) Regulations 2012
2012/212	The Compromise Agreements (Automatic Enrolment) (Description of Person) Order 2012
2012/215	The Automatic Enrolment (Miscellaneous Amendments) Regulations 2012

Northern Ireland

SR Reference	Title
2012/40	The Social Security Pensions (Flat Rate Accrual Amount) Order (Northern Ireland) 2012

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.

The Timeline Regulations

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Distribution sheet

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