



Local Government Pensions Committee  
Secretary, Jeff Houston

## **LGPC Bulletin 91 – March 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 Circulars and Bulletins](#), [LGPC Communications](#), [LGPC Training](#), [the LGPC Pensions Section](#), the [Timeline Regulations](#) and [the ONS Pension Trends publication](#).

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## The 2012 Budget

The 2012 Budget contained a number of measures which will affect pension schemes and their members. The references in this section refer to [the paragraph number in the Budget 2012 document](#) which HM treasury published to accompany the Chancellor of Exchequer's Budget speech.

The biggest change affects pensioners. The Chancellor of the Exchequer announced that the Age Related Allowances (ARAs) for pensioners will be amended gradually so they are brought into line with the standard personal allowances. The previous announced increases in ARAs from £9,940 to £10,500 for pensioners over age 65 and from £10,090 to £10,660 for pensioners over age 75 will still go ahead. From April 2013, however, the ARAs will be frozen until they align with the personal allowance. [1.199]

There is a further change which will affect those individuals who expect to reach the ages of 65 or 75 shortly. The entitlement to the ARAs will be restricted to those people born between 6 April 1938 and 6 April 1948 for the current over age 65 allowance and those before 6 April 1938 for the over age 75 allowance. [1.199]

The Chancellor announced that the Government is committed to the merger of the State Basic Pension and the State Second Pension into a Single Tier Foundation Pension. It will be introduced during the course of the next Parliament. It is expected that the initial level of the new single tier pension will be £140 which will be above the means tested standard Guarantee Credit. Further details will be included in a White Paper which will be published in the near future. Final decisions on the implementation of the new single tier pension will be taken at the next spending review. [1.212]

The Budget document re-affirmed the Government's intention to ensure SPA rises in future to match increases in longevity. It will publish its proposals simultaneously with the Office of Budget Responsibility's 2012 Fiscal sustainability report. In conjunction with this, the Government wants to reach "high-level agreement with the public sector unions on long-term reform of public service pensions, including on linking pension age to the rising State Pension age". [1.41]

Primary legislation will be introduced to strengthen the reporting requirements and the powers of exclusion relating to QROPS. The QROPS list will exclude any pension schemes where a country, in which a QROPS is established, permits the use of a pension scheme to provide tax advantages that are not intended to be available under the QROPS rules. [2.69]

The new Pension Infrastructure Platform is one of a number of initiatives designed to increase investment in the country's infrastructure. The Pension Infrastructure Platform is owned and will be run by UK pension funds.. The first wave of the initial £2 billion investment is expected to occur by early 2013. A separate group of pension fund investors has presented another set of proposals to HM Treasury for pension fund involvement in infrastructure in the construction phase. [1.225]

## **RPI / CPI: The Court of Appeal ruling**

On 2 December 2011, the High Court ruled that the Government's decision to switch from RPI to CPI, when up-rating pensions in public service pension schemes, was lawful. The Trade Unions subsequently took a challenge to the Court of Appeal. On 20 March 2012, the Court of Appeal unanimously dismissed the unions appeal and ruled again that the Government's switch in indexation was lawful.

The Court of Appeal has not granted the Trade Unions permission leave to appeal to the Supreme Court. The Unions can request the Supreme Court directly for permission to do so.

## **LGPS 2008: new transfer factors (England and Wales)**

GAD has issued a further worked example in respect of the new transfer factors. It demonstrates how conversion factors are calculated for Group 2 members who have post 31 March 2008 service which is regarded as Part B membership. The example has been uploaded to the [post 31 March GAD guidance page of the Timeline Regulations](#) website. The example has been added to two sections: the first is in the Administration Regulations 79 and 83 section and the second is in the Pensions and Divorce part of the Divorce section.

## **LGPS 2008: ARCs**

DCLG published a letter on 20 March 2012 which had an attachment on the subject of ARCs. Following the High Court's ruling on the Trade Unions' challenge to the switch in indexation, new ARC factors (based on the use of CPI for the period both before and after retirement) will become effective from 1 April 2012. The note adds existing ARC contracts will continue under the terms and conditions which applied when the contract was originally entered into by the member. The note on ARCs has been added to the [ARC section of the post 31 March 2008 GAD guidance page of the Timeline Regulations](#) website.

## **LGPC 2008: Use of Accumulated AVCs and SCAVCs**

On 22 March 2012, DCLG issued the latest factors where the member wishes to use accumulated in-house AVCs to purchase a scheme annuity. The new factors are effective immediately. The new factors and DCLG's cover letter have both been added to the [Use of Accumulated AVCs and SCAVCs section of the post 31 March 2008 GAD guidance page of the Timeline Regulations](#) website.

## **LGPS 2008: Annual allowance tax charge – scheme pays option**

DCLG have copied responses from GAD to two queries from administering with respect to calculating the adjustments to the member's benefits where the member elects for the scheme pays option. [The document \(containing the responses on the scheme pays option\)](#) has been added to the Timeline Regulations website.

## **LGPS 2009 (Scotland): Assessment of member contribution rates 2012/13**

SPPA have published version 6 of the Statutory Guidance on the Assessment of member contribution rates for 2012/13. Annex C to the document contains the tables which

determine the contribution rate the member pays. A copy of the Statutory Guidance is available from [the Statutory Guidance and Circulars Page in the Scottish section](#) of the Timeline Regulations website.

### **The Social Security Revaluation of Earnings Factors 2012**

The Social Security Revaluation of Earnings Factors Order 2012 [SI 2012/187] comes into force on 6 April 2012 and details the earnings factors used to calculate a scheme member's GMP. The percentage increase for the tax year 2011/12 is 1.8% and is based on the measure of Average Weekly Earnings (non-seasonally adjusted, including bonuses) for the 12 month period to September 2011. The Statutory Instrument may be viewed at [Timeline Regulations Section 148 Revaluation Orders page](#).

### **Pensions Increase (Review) Order 2012**

The annual rate of pensions 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%. The percentage and part year percentages are detailed in the Pensions Increase (Review) Order 2012 [SI 2012/782] which, together with the appropriate multiplier tables, can be viewed at [the Timeline Regulations Pensions Increase \(Review\) Orders page](#).

### **The GMP Increase Order 2012**

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% (assuming the AP is not less than the GMP). This is set out in the Guaranteed Minimum Pensions Increase Order 2012 [SI 2012/693] which can be viewed at [the Timeline GMP Increase Orders page](#).

### **The Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2012**

[The Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2012 \[SI 2012/884\]](#) were laid before the House of Commons on 21 March 2012 and come into force on 6 April 2012. SI 2012/884 amends three existing legislative items already on the statute book:

- The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 [SI 2006/206];
- The Pension Schemes (Information Requirements – Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 [SI 2006/208]; and
- The Registered Pension Schemes (Provision of Information) Regulations 2006 [SI 2006/567].

The amendments contained with SI 2012/884 are summarised below:

- there are now three conditions (instead of four) which an overseas pension scheme must satisfy to be recognised for tax purposes;
- the conditions for recognised overseas pension schemes have also been changed;

- in addition, a pension scheme established in New Zealand must now comply with requirements in regulation 3(4) of SI 2006/206 unless the scheme is a KiwiSaver scheme as defined in New Zealand's KiwiSaver Act 2006;
- information that a scheme administrator of a QROPS must provide or may be required to provide to HMRC where there is a recognised transfer from a registered pension scheme to a QROPS
- information that a member of a registered pension scheme must give to the administrator of that scheme if the member requests a recognised transfer to a QROPS;
- changes to the reportable events report in relation to transfers to QROPS i.e. the report the scheme administrator of a registered pension scheme must provide to HMRC in respect of all of the reportable events specified in column (1) of the Table in regulation 3 of SI 2006/567 which have occurred in respect of the scheme during the reporting year.

**The LGPC Secretariat will shortly update and reissue the pro-forma QROPS transfer out declaration form together with additional explanatory notes in relation to the changes mentioned above.**

### HMRC Tax calculator

HMRC have provided [a tax calculator](#) on its website to aid individuals to determine the amount of the pension saving they have accrued during a Pension Input Period. However, the tax calculator will be of little assistance to members of the LGPS as the calculator is not appropriate for:

- members of a cash balance arrangement, a career average scheme or a hybrid scheme;
- part-time members of final salary schemes;
- individuals who are members of more than one final salary scheme or money purchase scheme; and
- members where the accrual rate changed during their membership of the scheme (e.g. the change of accrual rate from 80ths to 60ths as is the case for all the Local Government schemes).

### Ending of contracting-out for defined contribution schemes

NISPI has responded to a query from an administering authority with respect to whether, after 5 April 2012, LGPS funds can transfer a member's benefits to a DC scheme that ceased to be contracted out after 5 April 2012. An extract from the email response is reproduced below.

*"I can confirm that with the abolition of contracting-out for Defined Contribution schemes there will no longer be any APP or COMP schemes from 6 April 2012. As a consequence, members of COSR schemes will no longer have the option to transfer to an APP or COMP scheme. However, new legislation will also come into force on 6 April 2012 which will allow for the transfer of GMP or section 9(2B) rights to a non contracted-out scheme.*

*We have amended our CA1888 and CA1889 forms to cater for this:*

*· A unique scheme number of A7990001X will be used in all cases to identify the receiving scheme as a non contracted-out scheme – the specific scheme details are not required.*

*· An additional declaration has been added to make clear that the scheme has confirmed that:*

*o the member has acknowledged that they have had statement of benefits from the new scheme in respect of the transfer payment, and*

*o they accept that the benefits provided by the new scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme. Particularly that there will no longer a requirement for the new scheme to provide survivor benefits.*

*The new forms will be available on the internet from 6 April 2012 - [http://www.hmrc.gov.uk/nic/forms/ni\\_services-form.htm](http://www.hmrc.gov.uk/nic/forms/ni_services-form.htm)*

*I can also confirm that from 6 April 2012 if a transfer is made from a scheme that was (prior to abolition) a COMP or an APP scheme, the rights being transferred will, at that stage, be non-protected rights and therefore will not create a contracted-out liability in the importing COSR scheme. This includes pre 1997 rights – the COSR scheme will have no liability to pay a GMP.”*

The response was provided by Sue Thompson of the NISPI Technical Section whose telephone number is 0191 225 6163 and email address is [Susan.Thompson@hmrc.gsi.gov.uk](mailto:Susan.Thompson@hmrc.gsi.gov.uk).

Regulation 6 of the Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 [[SI 2011/1245](#)] substitutes new regulations 5 and 10 into the Contracting-out (Transfer and Transfer Payment) Regulations 1996 [SI 1996/1462].

Regulation 5 will permit a transfer payment in respect of a GMP to an occupational or personal pension scheme which is not a salary-related contracted-out scheme, an overseas scheme or an overseas arrangement provided a number of conditions are met. These are:

- the member consents in writing; and
- the transfer payment (whether or not it forms part of a larger payment in respect of both guaranteed minimum pensions and other rights) is of an amount at least equal to the cash equivalent of the earner's accrued rights to guaranteed minimum pensions, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents); and
- the member acknowledges in writing to the transferring scheme that:
  - the member has received a statement from the receiving scheme which details the benefits to be provided in respect of the transfer payment; and
  - accepts the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme; and

- accepts there is no statutory requirement on the receiving scheme to provide survivor's benefits out of the transfer payment.

Regulation 10 imposes similar conditions where the member wishes to transfer out benefits with respect to section 9(2B) rights to an occupational or personal pension scheme which is not a salary-related contracted-out scheme, an overseas scheme or an overseas arrangement. These are:

- the member consents in writing;
- the member acknowledges in writing to the transferring scheme that:
  - the member has received a statement from the receiving scheme which details the benefits to be provided in respect of the transfer payment; and
  - accepts the benefits to be provided by the receiving scheme may be in a different form and of a different amount to those which would have been payable by the transferring scheme; and
  - accepts there is no statutory requirement on the receiving scheme to provide survivor's benefits out of the transfer payment.

Whilst one might have expected that regulation 80 of the LGPS (Administration) Regulations 2008 and regulation 75 of the LGPS (Administration) (Scotland) Regulations 2009 would need to be amended to permit such transfers, it appears that due to a drafting error in sub-paragraph (4) of those Regulations (i.e. the inclusion of the words "non-contracted out") no amendment is required to allow such transfers.

**The LGPC Secretariat will shortly update and reissue the pro-forma transfer out declaration form to cover such transfers.**

## Pensions Liberation

On 25 February 2012, the Pensions Regulator posted a statement on its website giving [a warning against early release of pension offers](#). The statement is jointly issued by the Pensions Regulator (TPR), the Financial Services Authority (FSA) and HMRC and is a response to a noted increase in pension offers which claim to provide loans or tax-free cash from individual's pensions savings before they attain age 55.

The offers normally involve the transfer of part of a member's pension fund into "risky or opaque investment structures, frequently based overseas- with no guarantee that members will get their money back if something goes wrong". TPR, FSA and HMRC are urging members to be wary of website promotions, cold-calls or advertisements inducing them to transfer their current occupational or personal pension savings to another arrangement to permit access to a cash payment or a loan.

The statement highlights two case studies. In the first case study, TPR has appointed an independent trustee with exclusive powers to six schemes operated by Ark Business Consulting (ABC). ABC created a concept called a "Pension Reciprocation Plan" which used loans between pension schemes to allow members access to pension funds before retirement. In December, the High Court ruled the structure of the Pension Reciprocation Plan was legally void.

In the second case study, TPR has appointed an independent trustee to the Hollywell Enterprises Pension Scheme. This followed concerns that an intended £2 million transfer from a bank account in Germany was an attempt to move high value pension funds to Belize as part of a pensions liberation exercise.

The joint statement highlights the risks for individuals which include:

- the loss of the entire pension saving if the arrangement is not bona fide;
- the payment of high fees (which are deducted from the pension fund as it is transferred) to firms making the arrangements on behalf of the member; and
- significant tax charges for the individual where the funds are taken out of an occupational or personal pension arrangement early since this will constitute an unauthorised payment.

At the end of the joint statement, there are hyperlinks to the FSA's register of all authorised financial services firms, the FSA's warning on the early release pension schemes and TPR's factsheet on pension liberation. There are also telephone numbers for the FSA's consumer helpline and HMRC's Pensions Anti-fraud Unit.



## Bits and Pieces

### LGPC Circulars and Bulletins

LGPC [Circular 257](#) (Annual Update) was issued in March.

Last month's Bulletin included an announcement which stated that in future only the pdf format of the Bulletin will be available from the LGE website. As a result of feedback from Pensions Officers' Groups, a Word version will be attached to the email announcing the publication of each Bulletin.

### LGPC Communications

#### **The New LGPS 2014 - Joint Communications Update**

An update has been produced by the Local Government Association (LGA), UNISON, Unite and GMB in order to keep members up to date with the progress against the LGPS 2014 project.

This update along with the project documentation can be found on the LGPS members' website at [www.lgps.org.uk](http://www.lgps.org.uk) by selecting the Reform of the LGPS – The New LGPS 2014 Project option under Latest.

Pension Managers in England and Wales - could you please forward this information to the employers in your Fund. It is important that as many interested stakeholders, including scheme members, are made aware of this information.

### LGPC Training

[Circular 256](#) issued in January announced a round of the popular "Understanding" workshops and this year's Insight residential training courses. Bookings to date on the Final Pay events are much lower than expected. Aimed at people responsible for calculating final pay, the event was first run in 2010 and has been modified for 2012 and takes into account regulation changes in the definitions of pensionable pay and final pay as well as covering the expected changes due to the impending Miscellaneous Regulations 2012. Worked examples and practical exercises take into account both methods of calculating pay for a monthly paid person (i.e. both twelfths and 365ths methods) as well as covering all aspects of part-time workers and the potential difficulties in accurately assessing final pay. New for 2012, there is also an explanation of the differences in Career Average schemes.

Delegate feedback in 2010 was very encouraging with employing authority staff, notably, stating they gained a better understanding of the calculations themselves and the need to supply information to their administering authority in a timely manner. Administering Authorities are positively encouraged to bring the workshops to the attention of their employers if they have not already done so. Locations and dates are as follows:

01 May	Leeds	Marriott Hotel
03 May	Birmingham	Jurys Hotel
10 May	Exeter	Rougemont [Thistle] Hotel
22 May	London	Westminster Thistle Hotel

24 May	Cardiff	Marriott Hotel
31 May	Lincoln	The Lincoln Hotel
01 June	Liverpool	Marriott Hotel
07 June	London	Westminster Thistle Hotel

Delegates can reserve places on all training events via the [LGE's online booking system](#).

## LGPC Pensions Section

David Friend will be leaving his position of Pensions Adviser with effect from Friday, 27 April 2012 to take up a post with Civica.

## Timeline Regulations

### England and Wales

The Academies FAQ document and CLG's covering letter, which were issued on 29 February 2012, have been added to the Statutory Guidance page.

GAD has issued an example on how to determine the conversion factors for Group 2 members with post 2008 taper service as part of a CETV calculation. The example has been added to the post 31 March 2008 GAD guidance page. DCLG's cover letter (dated 20 March 2012) along with a note on ARC factors and a GAD response on the scheme pays option under the annual allowance regime have also been added to the post 31 March 2008 GAD guidance page.

On 21 March, DCLG issued updated GAD guidance on the use of accumulated AVCs to purchase an additional pension. Both the updated guidance and DCLG's cover letter have been added to the post 31 March 2008 GAD guidance page.

### Scotland

Version 6 of the Statutory Guidance on the Assessment of Member Contribution Rates (2012/13) has been added to the Statutory Guidance and Circulars page.

### United Kingdom

The Pensions Increase (Review) Order 2012, the Guaranteed Minimum Pensions Increase Order 2012 and the Social Security Revaluation of Earnings Factors Order 2012 have been added to the appropriate pages.

## ONS Pension Trends

The Office of National Statistics has updated [three chapters of its Pension Trends](#) publication. Chapter 2 covers population changes and has a number of population projections for the coming decades. In 2010, there were 3.2 people of working age for every person who had attained SPA or was older. This figure is projected to drop to 2.9 by 2051 and would fall even further to 2.0 without the changes to SPA.

Chapter 3 considers life expectancy and healthy ageing. Due to the increase in SPA, this decade will see life expectancy fall for women who attain SPA. Life expectancy of both sexes, however, is expected to increase between 2021 and

2051. Chapter 4 examines the age at which people leave the labour market as opposed to attaining SPA. In 2010, the men left the labour market at 64.6 years on average and women left at an average age 62.3.

## Legislation

### United Kingdom

#### SI Reference Title

2012/522	The Registered Pension Schemes (Authorised Payments) Regulations 2012
2012/528	The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order 2012
2012/539	The Occupational and Personal Pension Schemes (Levies - Amendment) Regulations 2012
2012/542	The Occupational Pension Schemes (Contracting-out and Modification of Schemes) (Amendment) Regulations 2012
2012/573	The Social Security (Contributions) (Amendment) Regulations 2012
2012/640	The Police Pension (Amendment) Regulations 2012
2012/679	The Family Procedures (Amendment) Regulations 2012
2012/682	The Pensions Act 2011 (Commencement No.2) Order 2012
2012/683	The Pensions Act 2008 (Commencement No.12) Order 2012
2012/691	The Pensions Act 2004 (Disclosure of Restricted Information by the Pensions Regulator – Amendment) Order 2012
2012/692	The Pension (Institute and Faculty of Actuaries and Consultation by Employers – Amendment) Regulations 2012
2012/693	The GMP Increase Order 2012
2012/709	The Pensions Act 2008 (Abolition of Protected Rights) (Consequential Amendments) (No.2) (Amendment) Order 2012
2012/757	The Social Security (Miscellaneous Amendments) Regulations 2012
2012/766	The Social Security (Credits) (Amendment) Regulations 2012
2012/780	The Social Security Benefits Up-rating Order 2012
2012/782	The Pensions Increase (Review) Order 2012
2012/804	The Social Security (Contributions) (Limit and Thresholds) (Amendment) Regulations 2012
2012/807	The Social Security (Contributions) (Re-rating) Order 2012
2012/816	The Social Security (Categorisation of Earners) (Amendment) Regulations 2012
2012/817	The Social Security (Contributions) (Amendment No.2) Regulations 2012
2012/884	The Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2012
2012/911	The Pensions Act 2007 (Commencement No.4) (Amendment) Order 2012
2012/953	The Firefighters' Pension Scheme (England) (Amendment) Order 2012
2012/954	The Firefighters' Pension Scheme (Amendment) (England) Order 2012

## Northern Ireland

### SR Reference Title

2012/87	The Social Security Revaluation of Earnings Factors Order (Northern Ireland) 2012
2012/88	The Social Security (Lower Earnings Threshold) Order (Northern Ireland) 2012
2012/89	The Social Security Pensions (Flat Rate Accrual Amount) Order (Northern Ireland) 2012
2012/98	The Occupational and Personal Pension Schemes (Levies) (Amendment) Regulations (Northern Ireland) 2012
2012/99	The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order (Northern Ireland) 2012
2012/109	The Social Security (Credits) (Amendment) Regulations (Northern Ireland) 2012
2012/137	The Pensions Increase (Review) 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](#)

## Pensions Section Contact Details

### Jeff Houston (Head of Pensions)

Telephone: 020 7187 7346

Email: [jeff.houston@local.gov.uk](mailto:jeff.houston@local.gov.uk)

### Terry Edwards (Senior Pensions Adviser)

Telephone: 01954 232 834

Email: [terry.edwards@local.gov.uk](mailto:terry.edwards@local.gov.uk)

### Tim Hazlewood (Pensions Training & Development Manager)

Telephone: 01455 824 850

Email: [tim.hazlewood@local.gov.uk](mailto:tim.hazlewood@local.gov.uk)

### Irene Wass (Pensions - Communications Adviser)

Telephone: 01246 414 902

Email: [irene.wass@local.gov.uk](mailto:irene.wass@local.gov.uk)

### Elaine English (LGPS Executive Officer)

Telephone: 0207 187 7344

Email: [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk)

### Dave Friend (Pensions Adviser)

Telephone: 01457 859 016

Email: [david.friend@local.gov.uk](mailto:david.friend@local.gov.uk)

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

Email: [alison.hazlewood@local.gov.uk](mailto:alison.hazlewood@local.gov.uk)

## Distribution sheet

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

or email: [David.Friend](mailto:David.Friend@lg.gov.uk)  
tel: 01457 859016