

Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 153 – January 2017

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

Please contact [Con Hargrave](#) 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.

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Update on May 2016 consultation on amendment regulations

After a series of changes to the personnel in the DCLG pensions team during 2016, a number of new recruits have recently joined the DCLG pensions team from elsewhere in the Department.

The LGPC Secretariat have held productive initial discussions with the new members of the DCLG team and those conversations have in particular focused on the issues addressed in [DCLG's May 2016 consultation](#) on amendments to the LGPS in England and Wales, including Fair Deal and Freedom and Choice for AVCs.

Further to those conversations, we understand that the following approaches are being considered in respect of the matters covered in the consultation document:

- Fair Deal – the consultation responses highlighted a number of gaps in the draft regulations and a further consultation may need to be undertaken on an amended set of draft regulations. The policy intent, to extend the principles of Fair Deal to the LGPS, has not changed.
- Freedom and Choice for AVCs – the consultation responses noted a number of deficiencies with the draft regulations, meaning that a further consultation may be necessary to address these. Separately, due to the potential administrative complexities of bringing elements of Freedom and Choice to AVCs in the LGPS, the advantages and disadvantages of offering UFPLs from LGPS AVCs are being considered.
- Other amendments – these are being considered on a case by case basis and DCLG will try to move these forward as appropriate.

DCLG are working on a formal response to the consultation which will be published in due course.

Request for information on proposed underpin extension

One of the proposed amendments included in the consultation referred to in the above article was that underpin protection be extended to cover certain eligible members who have transferred into the LGPS from other public service pension schemes on or after 1st April 2014 (draft regulation 25). LGA's [response to that consultation](#) set out our opposition to this change for a variety of reasons.

On 18th January, the LGPC Secretariat emailed funds to ask for information that DCLG had requested regarding this proposed amendment, specifically regarding the number of transfers from public service pension schemes that would meet the criteria for an underpin test to be undertaken.

By the end of 26th January, 26 funds representing 40% of the scheme's active membership responded confirming that over the whole of 2015/16, there were only 3 transfers received which would have required an underpin calculation to be undertaken. Across the whole of the LGPS, this suggests there were probably no more than 8 or 9 inward transfers during 2015/16 where the proposed draft regulation 25 would require an underpin calculation be undertaken at the point an individual leaves the scheme or reaches their normal pension age.

The LGPC Secretariat have responded along these lines to DCLG, noting that the low numbers, combined with the fact that the underpin is only rarely effective anyway, suggest that it is very unlikely that draft regulation 25 would actually provide substantive protection to any more than one or two members (if any).

Thank you for the responses received to the request in such a short period of time. We hope that the information gathered supports our argument with Government that this is an unnecessary and administratively burdensome amendment.

Exit payment cap – Enterprise Act 2016 commencement order

On 24th January, HM Treasury issued [SI2017/70](#), the Enterprise Act 2016 (Commencement No. 2) Regulations 2017, effective from 1st February 2017.

The regulations commence certain parts of the Enterprise Act 2016 including changes to the Small Business, Enterprise and Employment Act 2015, which enable the £95k exit payment cap to be introduced. However, the commencement order does not itself bring the exit payment cap into effect, but merely allows the Government to make regulations providing for the introduction of the cap.

The LGPC Secretariat remain of the understanding that HM Treasury plan to undertake a further consultation on draft regulations covering the cap before this becomes effective.

LGPS Scotland

Late retirement guidance and addendum to additional pension guidance

On 23rd January 2017, SPPA published [circular 2017/1](#) regarding the publication of:

- new late retirement guidance, and
- a new addendum relating to the purchase of additional pension (contracts commencing on or after 1 April 2015 or paid for by the employer) beyond normal pension age.

The new late retirement guidance replaces the version dated 26th February 2015 and is effective from 24th April 2017. The calculation methodology is unaffected, but the new guidance contains revised factors and unisex factors now replace the prior gender-specific factors.

The SPPA circular noted the following regarding the changes to the late retirement factors:

“The intention of the delayed implementation is to provide members considering late retirement with the opportunity to retire before the new factors take effect. It is therefore important that this information is communicated to potentially affected scheme members as soon as possible.”

Funds may also wish to consider our comments in appendix 1 of [bulletin 152](#) on whether the changes to the late retirement factors are ‘material alterations’ requiring funds to inform their members of the change.

The new addendum to the additional pension guidance applies to the purchase of additional pension over NPA for contracts commencing on or after 1 April 2015 or paid for by the employer. The new factors replace those contained in tables F and G of the

prior guidance dated 26th February 2015. Unlike the tables F and G in the 26th February 2015 guidance, the new factors in this guidance are unisex and apply equally to female and male members. The addendum is effective from 23rd January 2017.

The updated guidance is available under [Statutory Guidance](#) on www.lgpsregs.org.

HMRC

GMP reconciliation and LGPS pension funds

HMRC have recently provided the LGPS Secretariat with an update on where LGPS pension funds are up to with the reconciliation of their deferred and pensioner GMP records, as outlined in the below table.

Scheme	Total administering authorities (as recorded by HMRC)	Deferred and pensioner GMP data issued by HMRC to authority	No. of authorities that have raised queries with HMRC on their deferred and pensioner data	No. of authorities that have yet to raise any queries with HMRC on their deferred and pensioner data
LGPS England & Wales	88	86	36	52 (59%)
LGPS Scotland	12	12	6	6 (50%)

As funds will be aware from previous bulletins, HMRC are currently in the process of performing the closure scan for active member GMP records, and this data will be sent to those funds who have completed a closure scan request form between January and March 2017. It is important that funds prioritise clearing their deferred and pensioner queries as soon as possible so that due attention can be given to the reconciliation of their active member data before the HMRC reconciliation process completes on 31st December 2018. Crucially, queries relating to all data must be raised with HMRC by 31st October 2018 in order to be considered before the process ends.

As reported in [bulletin 152](#), [HMRC countdown bulletin 21](#) provides information on how to obtain closure scan data for your active members. Funds are reminded to complete and return a [closure scan request form](#) as soon as possible. The completed form should be sent to schemereconciliationtelephoneenquiry.inbox@hmrc.gsi.gov.uk.

HMRC operate a 'book-in' service for resolving all queries arising from the reconciliation process and it is important that funds contact HMRC to arrange a slot for dealing with their queries. If funds have any queries about this, please contact the HMRC SRS customer relationship team at crm.schemereconciliationservice@hmrc.gsi.gov.uk.

Countdown bulletin no. 22

[HMRC countdown bulletin 22](#) was published in early January containing a range of detailed information about the ending of contracting and the reconciliation process. In particular the bulletin contained:

- Confirmation that HMRC have appointed a new Customer Relationship Manager for the Scheme Reconciliation Service, Lynne Fletcher, who has worked with HMRC for over 25 years.
- A 'questions and answers' section regarding the GMP checker service.

- Information regarding the active member reconciliation process that is now underway.
- An update on the automation of SRS queries.
- Information regarding a delay to the financial reconciliation process. Further detail on the process and new timescales for the financial reconciliation will be provided as soon as possible.

DWP

Provision of Information (Amendment) Regulations [SI2017/11]

As reported in [bulletin 151](#), in November 2016 the Government consulted on changes to the Registered Pension Schemes (Provision of Information) Regulations 2006 which proposed to amend the information that must be provided where a scheme administrator makes payment of a taxable lump sum death benefit to a trust (who is not a bare trustee¹).

Following this consultation, the Government have issued [SI 2017/11](#), the Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2017.

The regulations require that when a scheme administrator makes payment of a taxable lump sum death benefit to a trust (who is not a bare trustee, as defined), the following information must be provided to the trustee within 30 days of the payment being made (new regulation 10A):

- (a) the amount of the lump sum death benefit on which tax has been charged under section 206,
- (b) the amount of that tax charge,
- (c) the name and pension scheme tax reference number of the registered pension scheme making the payment, and
- (d) the name, date of birth and date of death of the member of the registered pension scheme in respect of whom the lump sum death benefit is paid.

New regulation 10B provides that the same information is subsequently passed on to the trust beneficiary by the trustee (within 30 days of the payment being made from the trust to the beneficiary or within 30 days of the information being received from the scheme administrator, whichever is the later).

A lump sum death benefit may become taxable, for instance, where it is paid more than two years after the scheme administrator knew of the death. Where such a payment is taxable and paid to a trust (other than a bare trustee), this is currently taxable at a rate of 45% which must be deducted by the scheme administrator.

1 “bare trustee” means a person acting as trustee for:

- (a) an individual absolutely entitled as against the trustee,
- (b) two or more individuals who are so entitled,
- (c) an individual who would be so entitled but for being a minor or otherwise lacking legal capacity, or
- (d) two or more individuals who would be so entitled but for all or any of them being a minor or otherwise lacking legal capacity,

The new requirements are to ensure that a trust beneficiary has the information they need in order to claim a refund of the excess tax paid by the scheme administrator over and above the tax at their marginal rate.

The new requirements come into force on 6 February 2017, and if since 6 April 2016 a scheme administrator has made payment of a taxable lump sum death benefit to a trust, the additional information must be provided to the trustee by the end of 8 March 2017, if it has not been provided already.

Other News and Updates

Member website - improvement work

On 30th January, [Lorraine Bennett](#) sent the following update to LGPS pension fund contacts via email:

"In recent months we have been undertaking improvement work on the member website. I am pleased to say this work has now been completed and the changes below are now live on www.lgpsmember.org:

- *Accessibility – different font sizes and colour schemes have been introduced to make the site accessible to a wider audience - see <https://www.lgpsmember.org/access.php>*
- *New modellers – three new modellers have been introduced:*
 - o *[Lump sum modeller](#) – allows a member to work out how much pension they can convert to lump sum at retirement*
 - o *[Lifetime allowance quick check tool](#) – allows a member to work out if they are likely to exceed the LTA*
 - o *[Annual allowance quick check tool](#) – allows a member to check the amount of AA used from 2016/17 onwards. A decision was taken to keep the AA quick check tool simple so we haven't incorporated the money purchase AA, tapered AA or any years prior to 2016/17 (to avoid the pre and post alignment years). As time goes on we will look to introduce carry forward to the check tool.*
- *Mobile site – a mobile version of the site has been introduced. When users log onto www.lgpsmember.org from a mobile device they will automatically be directed to the mobile site, however, they will have the option to switch to the desktop version if they want to. If they switch to the desktop version any future visits to the site from their mobile will be directed to the desktop version, unless they switch back to the mobile version. The mobile site can be navigated using the hamburger bar (the three horizontal lines at the top of the page). It is a trimmed down version of the desktop site, loosely based on the short guide to the scheme. It contains all the calculators and the contact your LGPS fund page.*

We have undertaken comprehensive testing of the above, however, if you spot any errors or experience any difficulties using the site please let me know.

- *Transition – as confirmed in bulletin 143 (March 2016), the 2014 member site www.lgps2014.org will now been withdrawn. From a public point of view the www.lgps2014.org site will disappear **from 1 March 2017**, however, we are working on introducing redirects from the 2014 site for a further period of 12 months. A decision regarding the videos currently available on www.lgps2014.org will be made at the Communications Working Group meeting being held on February 13th; the outcome will be communicated to all funds shortly afterwards. We will look to withdraw www.lgps.org.uk later in the year once the Scottish member site is up and running.*

If you have any queries regarding the above please let me know.”

2017/18 employee contribution bandings

In recent weeks, the LGPC Secretariat have received a number of enquiries from employers and administering authorities regarding the employee contribution bandings for 2017/18.

Under regulations 9(4) and (5) of the LGPS Regulations 2013 and regulation 9(3) of the LGPS (Scotland) Regulations 2014, LGPS contribution bandings are uprated each year in accordance with pensions increase under the Pensions (Increase) Act 1971 (rounded down to the nearest £100).

As reported in [bulletin 150](#), the September 2016 rate of CPI was 1.0% and Government policy in recent years has been to base pensions increase under the Pensions (Increase) Act 1971 on the September rate of CPI for the previous year. Given this, we expect that 2017's pensions increase will apply at a rate of 1.0% and employee contribution bandings will be uprated at the same rate.

However, the Government have not yet confirmed this to be the case. The LGPC Secretariat have approached HM Treasury about this and asked that confirmation be provided as soon as possible so that employers and administering authorities can prepare for 1st April 2017.

As soon as we have a firm answer, we will send out confirmation via our mailing list.

Wandsworth and Richmond fund merger

In December 2016, the Government published [SI2016/1241](#), the Local Government Pension Scheme (Wandsworth and Richmond Fund Merger) Regulations 2016, which merged the Wandsworth and Richmond pension funds with effect from 1st October 2016.

Effectively, the statutory instrument merges the Richmond pension fund into the Wandsworth pension fund with the LB of Richmond upon Thames becoming a Scheme employer in the Wandsworth pension fund along with the other employers who participate in the Richmond fund.

The merger follows a consultation that took place over summer 2016. The Government have also published their [formal response](#) to that consultation.

Judges court case on pension reforms

[An employment tribunal has ruled](#) that the 2015 reforms to pension provision for judges were discriminatory, on age, sex and race discrimination grounds.

The reforms were made as part of the wider reforms to public sector pensions that gave rise to LGPS 2014 and LGPS (Scotland) 2015 and the tribunal decided that the Ministry of Justice discriminated against younger judges by allowing older judges to remain in the old, more generous scheme. As a consequence, this also meant that the reforms discriminated on sex and race grounds (as it was demonstrated that younger judges are more likely to be female and/ or of an ethnic minority background).

The Ministry of Justice are considering whether they wish to appeal against the outcome.

A similar case brought by the Fire Brigades Union in respect of the reforms to the Firefighters' Pension Scheme was heard by an employment tribunal in January 2017. The tribunal has yet to rule on this case.

Government response to report on intergenerational fairness

The Work and Pensions Committee have [published the Government's response](#) to their report on intergenerational fairness.

In the response, the Government set out its views on two recommendations made by the Committee:

- 1) That the triple lock should be replaced in 2020 with an earnings link. The Government repeated their position that the triple lock should remain for the remainder of the 2015-2020 parliament but did not comment on how state pensions should be updated beyond the end of this parliament.
- 2) That the Government should make the necessary information available so that research into the balance of fiscal contributions and withdrawals by different generations can be undertaken. In response, the Government said that they would be happy to consider requests to support the work of the Resolution Foundation Intergenerational Commission but did not think the committee's recommendation would be the best use of its resources.

Updates to lgpsregs.org

In January, the minutes from the technical group meeting of 9th December 2016 were uploaded to the [Technical Group minutes](#) page of www.lgpsregs.org.

Training

LGPC [training circular 302](#) was circulated to LGPS funds on 25th January providing advance notice of the LGPC trustees' conference taking place this year at the Highcliff Marriott in Bournemouth on 29th and 30th June.

As the move to pooled funds in England and Wales gets underway and the ramifications of Brexit for the United Kingdom are to the forefront of everyone's mind presently, the conference is themed "Brave New World" and topics likely to be included are:

Pooling – Transition management

Article 50 – Short, medium and long-term effects

MIFIDII and IORPII – Still a reality

Cost Management Mechanism – 49ths affordable?

Deficits Down? - Employer Contributions Up?

Comparing like-for-like – Consistency of data

Legal Update

The conference is not bookable at this stage - the programme is yet to be finalised and a further Circular will be issued in March 2017 which will include a full programme of events.

Further details on upcoming practitioner and employer training events will be announced in the February bulletin.

Legislation

United Kingdom

SI	Reference Title
2017/70	The Enterprise Act 2016 (Commencement No. 2) Regulations 2017
2017/50	The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling and Compensation Cap) Order 2017
2017/11	The Registered Pension Schemes (Provision of Information) (Amendment) Regulations 2017

Northern Ireland

SR	Reference Title
2017/30	The Public Service Pensions Revaluation (Earnings) Order (Northern Ireland) 2017
2017/29	The Public Service Pensions Revaluation (Prices) Order (Northern Ireland) 2017
2017/26	The Police Pensions (Amendment) Regulations (Northern Ireland) 2017

Useful Links

[LGA Pensions page](#)

[LGPS E&W member website](#)

[LGPS 2015 members' website](#)

[LGPS Advisory Board website](#)

[LGPS Regulations and Guidance website](#)

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

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

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

[The Timeline Regulations](#) for Final Salary Scheme

[The Timeline Regulations](#) for Career Average in England and Wales

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If you have a technical query, please email query.lgps@local.gov.uk and one of the team's LGPS pensions advisers will get back to you.

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Distribution sheet

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Pension managers (outsourced) and administering authority client managers
Local Government Pensions Committee
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