Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 156 – March 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.

Contents

LGPS England and Wales
- The application of the underpin
- DCLG letter to SAB on late retirement factors
- Publication of new transfer factor suite (E&W)

LGPS Scotland
- Publication of new transfer factor suite (Scotland)

HMRC
- Tax on interest for late payment of pension benefits
- Pension schemes newsletter 85
- Contracting out countdown bulletin 24
- Pension advice allowance payment
- Transfers to overseas pension schemes – removal of 70% rule

DWP
- Independent review of the state pension age
- The Employers' Duties (Implementation) (Amendment) Regulations 2017
- Bereavement Support Payment (BSP)
- COPE documents updated

Other News and Updates
- Spring Budget 2017
- Annual update bulletin and maximum additional pension
- Pensions Policy Institute briefing note

Trustees' Conference 2017

Legislation

LGPS England and Wales

The application of the underpin

The underpin guide has been updated to make it clearer when the underpin protection applies to a member who leaves the LGPS in England and Wales with a deferred benefit entitlement. A clean and tracked version (version 1.7) of the guide has been uploaded to www.lgpsregs.org as well as to the beta version of the new site, http://lgpsregs.webdigi.co.uk.

To clarify, where a member leaves the scheme with a deferred benefit entitlement, they must, at the underpin date, have an immediate entitlement to a pension under the 2014 scheme and would have had an immediate entitlement to payment under the 2008 scheme, for an underpin to be payable (assuming all the other criteria are met). The underpin date is the earlier of:

(i) the date the member attained their normal retirement age under the 2008 Scheme, or
(ii) the date the member ceased to be an active member of the 2014 Scheme with an immediate entitlement to a pension

Normally, a member leaving with a deferred benefit before age 60 would not have an entitlement under the 2008 Scheme to immediate payment of that deferred benefit from the day after leaving active membership and so the underpin amount would be £nil. In essence, even if such a member were to meet the criteria for an underpin entitlement under regulation 4(1) of the Transitional Regulations 2014 the underpin amount payable under 4(6) would be £nil and the member would fall at Step 2 in the underpin guide. This is the case even if the member does not elect to take payment of the deferred benefit until such time as they would not have required their employer's consent under the 2008 scheme (for most members from age 60). However, certain former Learning and Skills Council members, certain former members of the Metropolitan Civil Staffs Superannuation Scheme and certain former NHS members can voluntarily draw benefits on or after age 50 without the need for employer consent – see step 5 of the underpin guide for full details.

DCLG letter to SAB on late retirement factors

The local government Minister, Marcus Jones, has asked the scheme advisory board for the LGPS in England and Wales to explore the scope for improving the way in which late retirement factors are applied to active members who retire after their normal retirement age.

This follows concerns about the suitability of the underlying salary growth assumption compared to actual salary growth of this particular demographic and whether applying the factors at a single point in time on retirement to the whole period after normal pension age is the most appropriate way of awarding additional pension.

The Minister has asked the Board to submit any recommendations by September 2017.

Publication of new transfer factor suite (E&W)

Following the updates made to the Club memorandum in February 2017 (effective 1 March 2017), DCLG issued an updated transfer factors suite for the LGPS in England & Wales on 23 March. The updated factors (dated 9 March 2017) are on the Actuarial guidance page of http://lgpsregs.webdigi.co.uk.

LGPS Scotland

Publication of new transfer factor suite (Scotland)

Following the updates made to the Club memorandum in February 2017 (effective 1 March 2017), SPPA issued an updated transfer factors suite for the LGPS in Scotland on 10 March though this was amended on 23 March 2017 to include missing factor tables. The amended updated factors (dated 9 March 2017) are now on the Actuarial guidance page of www.lgpsregs.org and were issued with the accompanying notes from SPPA:

Please note the following information regarding this update:

The updated factor suite includes the following changes:

a. Club factors have been updated to match those in the revised Club Memorandum, dated February 2017.

b. Factors have been included for non-Club transfer in where the member is over NPA.

The revised Club factors do not contain factors for GMP adjustments or deductions for NI modification. The formulae for calculating Club transfers detailed in the current 'Individual Incoming & Outgoing Transfers' guidance document still apply, but these factors should be replaced by 0.

A revised guidance document will be issued shortly, but these revisions will not affect the results of calculations undertaken using the current guidance document and factor suite attached.

The following transitional arrangements should apply:

Transitional Scenario – Club Transfers	***Suggested factor suite to be used.***
Outgoing estimate of Transfer where guarantee date is before 1 March 2017	*Old LGPS GAD Factor suite*
Outgoing Transfer accepted within 3 months of the guarantee date and guarantee date is before 1 March 2017 – acceptance can be before 1 March 2017 or on or after that date	*Old LGPS GAD Factor suite*
Outgoing Transfer accepted 3 months or more after the guarantee date and guarantee date is before 1 March 2017 – acceptance before 1 March 2017 – Transfer Out must be recalculated as accepted beyond guarantee date (in effect transfer process starts again though before 1 March 2017)	*Old LGPS GAD Factor suite*
Outgoing Transfer accepted 3 months or more after the guarantee date and guarantee date is before 1 March 2017 – acceptance on or after 1 March 2017 – Transfer Out must be recalculated as accepted beyond guarantee date (in effect transfer process starts again though on or after 1 March 2017)	*Club Memorandum dated March 2017 and NEW LGPS GAD Factor suite*
Outgoing estimate of Transfer where guarantee date is on or after 1 March 2017	*Club Memorandum dated March 2017 and*

	NEW LGPS GAD Factor suite
Incoming transfers are unaffected by these changes as the basis for the incoming Club transfer is to use the factors, and where relevant pay, of the sending scheme so, by reverse, these should be captured in the above scenarios.	*N/A*

HMRC

Tax on interest for late payment of pension benefits

The LGPC Secretariat have received a number of queries as to whether a scheme administrator should deduct income tax from interest for late payment of pension benefits. The queries have arisen as a result of an example used in the '*how scheme administration member payments are taxed*' section of the Pensions Tax Manual (PTM143100).

The Finance Act 2013 amended section 874(5) of the Income Tax Act (ITA) 2007 to include interest on compensation payments as payments of yearly interest, meaning that tax should be deducted at source. The example in PTM143100 suggests that interest for late payment of a pension benefit is a compensation payment and that, as such, tax should be deducted from the interest at source.

We queried this example with HMRC as it is our understanding that interest for late payment of a pension benefit is a scheme administration payment under section 171 of the Finance Act 2004 and not a payment under 874(5) of the ITA2007. Therefore, we are of the opinion that although such payments are subject to income tax, administering authorities must not deduct this tax (because section 371 Income Tax (Trading and Other Income) Act 2005 places liability for income tax charged on interest on the person receiving or entitled to the interest). Instead, administering authorities must advise the member that they are responsible for accounting for the tax on the interest payment themselves and, accordingly, they should declare the payment to HMRC.

HMRC have confirmed that our understating is correct and will be reviewing the guidance in PTM143100 in due course.

Pension schemes newsletter 85

HMRC have published pension schemes newsletter 85 including updates on the following issues:

- Spring Budget 2017 (see article below for more information)
- Qualifying recognised overseas pension schemes
- Reporting of non-taxable death benefits through real-time information
- Relief at source
- Scottish rate of income tax
- Lifetime allowance
- Pension scheme registrations

In particular, HMRC have confirmed that funds should continue to use the interim process for reporting wholly non-taxable death benefits outlined in pension schemes newsletter 78. A solution to the problem which had meant that P6 tax coding notices were being issued in error in such cases will not be ready for the beginning of the 2017/18 year.

Additionally, because a review of the Event Report is currently underway, HMRC have confirmed they are not updating the 2017/18 Event Report to include the new lifetime allowance protection regimes.

This means that if funds have to report details of members who have relied on individual protection 2014 (applied for using the digital service), fixed protection 2016 or individual protection 2016 in their 2017/18 Event Report, these details will need to be provided to HMRC via email. HMRC will provide further information regarding this in due course.

Contracting out countdown bulletin 24

HMRC have published their March 2017 countdown bulletin 24 containing various articles relating to the ending of contracting-out and the scheme reconciliation process currently underway.

Of particular interest was an article on the timeline for submitting queries. HMRC have previously confirmed that reconciliation must be completed by December 2018 and that there will be no facility to raise queries after October 2018. This is reiterated within this bulletin. HMRC continue to stress that Schemes should book in for a query slot so that HMRC can respond within 'their' timescales. What appears to be new is that HMRC state the October 2018 deadline is for 'follow up/final queries', suggesting that it may not be appropriate to leave the submission of 'first time around' queries until October 2018.

In addition, HMRC have also confirmed that once HMRC have replied to a query, they will assume that their answer has resolved the matter unless the Scheme replies within 6 months of their response. If, because of reconciliation, a further query on an already raised matter is raised outside of the 6 month timeline, this will be treated as a new query.

Pension advice allowance payment

The Government have published the Registered Pension Schemes (Authorised Payments) (Amendment) Regulations 2017 (SI2017/397) which introduce a new type of authorised payment, the pension advice allowance payment (PAAP) from 6 April 2017.

The new payment allows an individual to use up to £500 from their pension pot to pay towards the cost of receiving retirement financial advice and/or the cost of implementing such advice. The introduction of the allowance was recommended by the Financial Advice Market Review (FAMR), which found that high quality financial advice can have a significant impact on retirement income if received early.

Insofar as the PAAP relates to the LGPS, whilst LGPS members will not be able to take such a payment from their main scheme benefits, it is the LGPC Secretariat's understanding that an individual could take a PAAP from their in-house AVC fund subject to the AVC provider being able to facilitate this. It is our understanding that Prudential is currently considering whether it will be able to make PAAP payments to advisers on behalf of AVC members and we will provide an update in due course. Administering authorities will need to check the position with other AVC providers.

Under the amendment regulations, a payment made by an arrangement (money purchase or hybrid) is a PAAP subject to the following conditions being met:

- the payment is made for retirement financial advice provided to the person or for the implementation of such advice,
- the payment is requested in writing containing a declaration by the person confirming that the following conditions are satisfied:
  - no more than two pension advice allowance payments have been requested and made in respect of the person,
  - no pension advice allowance payment has been requested and made in respect of the person in the tax year in which the request is made, and
  - the advice is regulated financial advice, provided by a financial advisor regulated and authorised by the Financial Conduct Authority to provide such advice, and
- the payment must be made by a registered pension scheme directly to the financial advisor and the payment must not exceed £500.

Transfers to overseas pension schemes – removal of 70% rule

The Government have issued the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) (Amendments) Regulations 2017 (SI2017/398), which amends the requirements that a pension scheme based outside the UK must meet for an individual to get UK tax relief on contributions or transfers to such a scheme. The regulations come into force on 6 April 2017.

In particular, the SI:

- removes what is known as the ‘70% rule’ which prescribes that an overseas pension scheme must designate a minimum of 70% of the transferred funds (which received UK tax relief) to provide the member with an income for life,
- amends the pension age test to allow schemes the ability to pay benefits earlier than they would currently be able to (generally, no earlier than normal minimum pension age, which is currently age 55) so long as such benefits would be authorised payments if paid by a registered pension scheme, and
- expands the type of agreement that enables a country to be a prescribed country to include a tax information exchange agreement providing for exchange of information between fiscal authorities. This is intended to allow more schemes to meet the requirements to be a recognised overseas pension scheme in the future.

DWP

Independent review of the State Pension age

On 23 March, John Cridland published the final report of his independent review of the state pension age. The report was commissioned by the Government to fulfil its duties under the Pensions Act 2014 to undertake a review of the state pension age each parliament.

The report looked at the key issues that drive State Pension age changes including, but not limited to:

- life expectancy
- the challenges faced by those who rely most on the State Pension
- the long-term financial sustainability of the system

The report's recommendations include:

- the State Pension age should rise to 68 between 2037 and 2039
- the State Pension age should not increase more than 1 year in any 10 year period, assuming that there are no exceptional changes to the data used
- that all employers should have elder care policies in place which set out a basic care offer
- that people should be able to access a mid-life career MOT and review which should be facilitated by employers and by the government using online support and through the National Careers Service
- that the 'triple lock' be withdrawn in the next Parliament.

In addition, a GAD report has been published which considers how State Pension age timetables might need to change beyond 2028, based on projections of life expectancy in future years

Both reports will inform the Government's review of the state pension age, which is due in May 2017.

The Employers' Duties (Implementation) (Amendment) Regulations 2017

The Government have issued the above-named SI (SI2017/347) following a consultation undertaken earlier this year. The regulations make technical changes relating to automatic enrolment for new employers created after 1 April 2017.

The automatic enrolment staging profile is set out in the Employers' Duties (Implementation) Regulations 2010 and applies to non-PAYE employers up to 1 April 2017 and to PAYE employers up to 30 September 2017. SI2017/347 confirms that after 1 April 2017 (for new non-PAYE employers) and from 1 October 2017 (for new PAYE employers) the trigger date for automatic enrolment duties is the date on which the employer's first worker starts work.

The regulations also introduce the equivalent of postponement for employers created after 1 April 2017, allowing them to defer automatic enrolment for new workers for up to three months in the same way that existing employers already can.

The LGPC automatic enrolment guide will be updated to reflect the contents of the SI in due course.

Bereavement Support Payment (BSP)

The Pensions Act 2014 introduced a new social security benefit called Bereavement Support Payment (BSP) for surviving spouses and civil partners who are widowed on or after 6 April 2017. BSP replaces the existing social security benefits for the bereaved (bereavement allowance, widow's pension, widowed mother's allowance, widowed parent's allowance and bereavement payment) and the Bereavement Support Payment

Regulations 2017 (SI2017/410) have been issued providing some details of the new scheme.

We have been advised by DWP that BSP does not include the payment of inherited additional pension (AP) though we are currently in discussions with DWP to clarify the impact (if any) on the payment of public service survivor pension benefits. If necessary, further advice will be issued in due course.

COPE documents updated

During March, DWP made updates to the documents it has published regarding the Contracted-Out Pension Equivalent or 'COPE' figure. The updated documents are available on the Government's state pension fact sheets webpage.

Other News and Updates

Spring Budget 2017

On 8 March, the Chancellor of the Exchequer, Philip Hammond MP delivered the 2017 Spring Budget, including some announcements of significant to the LGPS.

Charges on transfers to qualifying recognised overseas pension schemes (QROPSs)

In the Budget, the Government announced the introduction of an overseas transfer charge, taking effect from 9 March 2017.

The changes mean that, where a member requests a transfer to a QROPS on or after 9 March 2017, the value of the transfer (after any deduction of an LTA tax charge) may be liable to a 25% overseas transfer charge.

Following the change, members will still be able to transfer to a QROPS without the overseas transfer charge applying if any of the of the following conditions are met:

- the member is resident in the country where the QROPS receiving the transfer is based
- the member is resident in a country in the European Economic Area (EEA) and the QROPS they are transferring to is based in another EEA country
- the QROPS the member is transferring to is an occupational pension scheme and they are an employee of a sponsoring employer under the scheme
- the QROPS the member is transferring to is an overseas public service scheme and they are employed by an employer that participates in that scheme
- the QROPS the member is transferring to is a pension scheme of an international organisation and they are employed by that international organisation

On the day of the Budget, HMRC issued a note summarising the changes (appendix 1) and the Government have also published a more detailed guidance note to the introduction of the overseas transfer charge.

The LGPC Secretariat is currently in the process of preparing a factsheet for administrators summarising the main impacts of the changes and this will be published as soon as possible.

Reduction to the money purchase annual allowance (MPAA)

Following the consultation undertaken in late 2016, the Government also announced at the Budget that they plan to proceed with the changes that will see the MPAA drop from £10,000 to £4,000 from 6 April 2017.

Annual update bulletin and maximum additional pension

On 22 March, the LGPC Secretariat published the 2017 annual update bulletin (bulletin 155) which sets out the rates and bands applicable from April 2017 for various purposes.

It should be noted that the maximum additional pension that may be bought by, or on behalf of, an individual under regulation 16 of both the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014 is not changing in April 2017. This is a consequence of last year's pensions increase applying at a rate of 0%.

The additional pension limit will therefore remain:

- £6,755 for the 2017/18 scheme year for the LGPS in England and Wales, and
- £6,500 for the 2017/18 scheme year for the LGPS in Scotland.

Pensions Policy Institute briefing note

The Pensions Policy Institute (PPI) have published briefing note 93 on valuing and managing defined benefit pension schemes. The note is one of a series that the PPI are publishing on the current landscape for private sector DB schemes.

Whilst the note does not cover public service pension schemes like the LGPS, the document touches on issues that have general impacts on the DB sector, such as funding risk and the management of scheme liabilities.

Trustees' Conference 2017

On 28 March, the LGPC Secretariat issued circular 303 and a flyer for 2017's trustee conference, being held this year on 29-30 June 2017 at the Marriott Highcliff Hotel in Bournemouth.

The conference retains its popular lunchtime-to-lunchtime format and this year is themed 'Brave New World'. Booked speakers come from a range of perspectives on the LGPS and include the Chair of the Scheme Advisory Board (E&W), Cllr Roger Phillips.

Although historically aimed at elected members, the conference will be of interest to other people who attend pension committees, panels or sub-committees etc (e.g. employing authority, trade union and pensioner representatives, as well as officers). Since 2015, it has also attracted many local pension board members as the conference programme is of equal relevance to board members.

The conference also acts as an annual update for those persons who have been through the LGPC's "Fundamentals" course, keeping them up-to-date with developments in the local government pension world.

To book, please visit the LGA Events website.

Legislation

United Kingdom

SI	Reference Title
2017/422	The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017
2017/418	The Pensions Increase (Modification) Regulations 2017
2017/417	The Pensions Increase (Review) Order 2017
2017/415	The Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2017
2017/398	The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) (Amendments) Regulations 2017
2017/397	The Registered Pension Schemes (Authorised Payments) (Amendment) Regulations 2017
2017/394	The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2017
2017/375	The State Pension Debits and Credits (Revaluation) Order 2017
2017/354	The Occupational Pension Schemes and Social Security (Schemes that were Contracted-out and Graduated Retirement Benefit) (Miscellaneous Amendments) Regulations 2017
2017/347	The Employers' Duties (Implementation) (Amendment) Regulations 2017
2017/324	The Pension Protection Fund (Modification) (Amendment) Regulations 2017
2017/301	The Pensions Act 2014 (Pension Protection Fund: Increased Compensation Cap for Long Service) (Pension Compensation Sharing on Divorce) (Transitional Provision) Order 2017
2017/297	The Pensions Act 2014 (Commencement No.10) Order 2017
2017/287	The Social Security Revaluation of Earnings Factors Order 2017
2017/275	The National Health Service Pension Scheme and Additional Voluntary Contributions (Amendment) Regulations 2017
2017/242	The Public Service Pensions Revaluation Order 2017
2017/220	The Guaranteed Minimum Pensions Increase Order 2017
2017/203	The Occupational and Personal Pension Schemes (General Levy) (Amendment) Regulations 2017

Northern Ireland

SR	Reference Title
2017/64	The Pensions Increase (Review) Order (Northern Ireland) 2017

2017/63	The Pensions Increase (Modification) Regulations (Northern Ireland) 2017
2017/59	The Pension Protection Fund (Modification) (Amendment) Regulations (Northern Ireland) 2017
2017/58	The Pensions (2015 Act) (Pension Protection Fund: Increased Compensation Cap for Long Service) (Pension Compensation Sharing on Divorce) (Transitional Provision) Order (Northern Ireland) 2017
2017/57	The Occupational Pension Schemes and Social Security (Schemes that were Contracted-out and Graduated Retirement Benefit) (Miscellaneous Amendments) Regulations (Northern Ireland) 2017
2017/54	The Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2017
2017/47	The Guaranteed Minimum Pensions Increase Order (Northern Ireland) 2017
2017/44	The Pensions (2015 Act) (Commencement No. 5) Order (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

Pensions Section Contact Details

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.

Jeff Houston (Head of Pensions)
Telephone: 0207 187 7346
Email: jeff.houston@local.gov.uk

Terry Edwards (Senior Pensions Adviser – LGPC Secretariat)

*(NB: Normal working days are Thursday and Friday. Works on pension projects and is **not** a contact for technical enquiries)*
Telephone: 01954 232 834
Email: terry.edwards@local.gov.uk

Tim Hazlewood (Pensions Training & Development Manager)
*(NB: Normal working days are Monday and Tuesday. Works on training events and conferences only and is **not** a contact for technical enquiries)*
Telephone: 01455 824 850
Email: tim.hazlewood@local.gov.uk

Jayne Wiberg (Pensions Adviser – LGPC Secretariat)
Telephone: 07979 715825
Email: jayne.wiberg@local.gov.uk

Lorraine Bennett (Pensions Adviser – LGPC Secretariat)
Telephone: 0207 187 7374
Email: lorraine.bennett@local.gov.uk

Con Hargrave (Pensions Adviser – LGPC Secretariat)
Telephone: 0207 664 3176
Email: cornelius.hargrave@local.gov.uk

Bob Holloway (Pensions Secretary – LGPS Scheme Advisory Board (E&W))
Telephone: 07919 562847
Email: robert.holloway@local.gov.uk

Liam Robson (Pensions Analyst – LGPS Scheme Advisory Board (E&W))
Telephone: 0207 664 3328
Email: liam.robson@local.gov.uk

Elaine English (LGPS Executive Officer)
Telephone: 0207 187 7344
Email: elaine.english@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
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 Local Government Association (LGA). 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 LGA 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 Secretariat
Layden House
76-86 Turnmill Street
London
EC1M 5LG
or email: Con Hargrave
tel: 020 7664 3176