

LGPC Bulletin 159 – June 2017

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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LGPS England and Wales

Information note on GMP pensioner overpayments

On 9th June, the LGPC secretariat circulated an information note to funds in England and Wales to assist administering authorities in determining what action to take following the discovery of an overpayment of pension during the course of the contracted-out reconciliation exercise.

This document represents the views of the Secretariat and should not be treated as legal advice nor in any way a complete and authoritative statement of the law. Readers cannot place any legal reliance on the content and 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 LGPC Secretariat or 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 Note.

The information note is available on the [guides and sample documents](https://www.lgpsregs.org/guides-and-sample-documents) page of www.lgpsregs.org.

Outcome of judicial review on DCLG investments guidance

On 23rd June, the High Court published its judgment in a judicial review case concerning the statutory guidance DCLG issued to accompany the LGPS (Management and Investment of Funds) Regulations 2016.

The High Court ruled that the section of the statutory [Guidance on preparing and maintaining an investment strategy statement](#) stating that funds should not pursue policies that are contrary to UK foreign policy or UK defence policy was unlawful.

The High Court found that the Secretary of State had exceeded his regulation making powers by using the guidance to protect government foreign policy and UK defence policy, which, in the judge's view, were not policies for "pension purposes". The Secretary of State was held to have acted for an unauthorised purpose and therefore unlawfully.

We understand DCLG are considering whether to appeal against this aspect of the judgment.

The High Court was also asked to judge whether (a) the guidance lacked clarity and certainty and (b) whether Article 18(4) of the 2003 IORP Directive applied in the way suggested by the claimants to prevent the Secretary of State from imposing a form of approval before investment decisions are made. On both matters, the judge ruled in favour of the Secretary of State.

The judgment was circulated to LGPS investment contacts on 23rd June and is attached as [appendix 1](#).

Clarification on GAD transactions data requirements

On 7th June, an email was sent to funds in England and Wales with clarification regarding GAD's transaction data requirements and the treatment of interest on late paid member and survivor pensions. The email stated:

"After circulating the revised briefing note in March, a number of funds raised concerns to the LGA pensions team about the late clarification on how interest on late paid pensions (both survivor and member) should be treated. This was particularly in view of the fact the updated briefing note confirmed such interest payments would, where appropriate, have to be split into each of the categories of benefit accrual - pre-April 2014, post- March 2014 main section and post- March 2014 50/50 section.

After discussions held with GAD on this issue, GAD have confirmed that funds must provide a split in interest on member pensions and survivor pensions between the categories of benefit. However, due to a) the relatively low numbers of instances where interest on a pension is payable, and b) the difficulty in extracting a precise split in interest from systems, GAD would be able to accept reasonable estimates of the split in interest instead of an exact split.

Funds taking this approach should split the interest by the proportion of the individual's pension which relates to each particular category of benefit.

Example

Total pension - £10,000pa

Proportion based on pre-April 2014 benefit accrual - £9,000pa (90%)

Proportion based on post-March 2014 main section benefit accrual - £500pa (5%)

Proportion based on post-March 2014 50/50 section benefit accrual - £500pa (5%)

The pension is paid late and late payment interest of £100 is due in total.

Proportion of interest to be allocated to column A (pre-April 2014 benefit accrual) - £90 (90%)

Proportion of interest to be allocated to column B (post-March 2014 main section benefit accrual) - £5 (5%)

Proportion of interest to be allocated to column C (post-March 2014 50/50 section benefit accrual) - £5 (5%)

Interest on other elements does however need to be split in full as set out in the briefing note.

It should also be clarified that it remains the case that pensions which were already in payment prior to April 2017 do not need to be split into the different categories of benefit and just have to be reported at a total level.”

Updated actuarial guidance on use of accumulated AVCs

In early June, an amended version of DCLG's actuarial guidance on the use of accumulated AVCs to purchase additional pension under the scheme (pre-2014 AVC contracts) was uploaded to the [Actuarial Guidance](#) page of www.lgpsregs.org.

The guidance was amended only to remove references contained in the earlier version that suggested that councillors had the option of using their accumulated AVCs to purchase additional pension under the scheme. Under schedule 8 of the LGPS Regulations 1997 councillors are not able to use their accumulated AVCs to provide additional LGPS pension.

Due to the minor nature of the change, the guidance has been re-issued with the same date as the prior version (14 April 2016). A note on the website confirms the change that has been made.

LGPS Scotland

Issue of GAD transactions data briefing note

On 7th June, a briefing note was sent to funds in Scotland which sets out the split in transactions data (i.e. cashflow data) that LGPS funds in Scotland will be required to hold from April 2018 onwards.

This more detailed dataset will be required so that GAD can undertake their scheme cost control calculations in 2020 and beyond. Funds are asked to ensure that their software contacts are aware of the proposed changes and are able to implement these in time for April 2018.

The briefing note is attached as [appendix 2](#).

Updated non-Club GMP adjustment addendum

SPPA have issued an updated version of an addendum originally published in April 2016 for the purpose of calculating CETVs for divorce purposes and Non-Club CETVs in and out. The addendum was originally issued following the announcement that public service pensions would be fully indexed for those reaching state pension age between 6th April 2016 and 5th December 2018. The updated addendum can be found on the [Actuarial Guidance](#) page of www.scotlgpsregs.org.

The updated version was amended only to remove some references to DCLG that shouldn't have been contained in the original version.

Due to the minor nature of the changes, the addendum has been re-issued with the same date as the prior version (14 April 2016). A note on the website confirms the change that has been made.

HMRC

Request for LGPS fund PSTRs - reminder

In [bulletin 158](#), we included a request that funds send us their HMRC pension scheme tax references (PSTRs) so that HMRC can ensure their records are up to date. To date we have received only around 30% of funds' PSTRs and it would be much appreciated if the remaining funds could send their PSTRs through to query.lgps@local.gov.uk by the end of Friday 14th July.

For clarity, the PSTR HMRC require is each fund's individual 'sub-scheme' PSTR used in making its submissions to HMRC, not the reference for the LGPS as a whole. In England and Wales, for example, the scheme's national PSTR is 00329946RE.

Contracted-out reconciliation – HMRC Forums for the LGPS

In March 2017 (Edinburgh) and June 2017 (Goole), the LGPC Secretariat attended two LGPS HMRC forums.

Both forums were well attended and gave administering authorities the opportunity to:

- Share their experiences of the exercise with one another, and
- Discuss approaches to various issues, and
- Raise queries 'face to face' with HMRC, and
- Receive the latest update from HMRC.

A key point that came out of those forums was the suggestion that administering authorities should obtain a 'refresh' of their data. The refresh will not only contain the latest position regarding deferred and pensioner members, but will also include active data, all on one report. To obtain a 'refresh' of data administering authorities should email HMRC at: Schemereconciliationtelephoneenquiry.inbox@hmrc.gsi.gov.uk.

The forums held in March and June were at the request of, arranged and hosted by, local Pension Officer Groups (POGs). Therefore, if an administering authority would like to attend such a forum, please can this request be raised by way of your POG and,

thereafter, HMRC can be approached using the following email address:
crm.schemereconciliationservice@hmrc.gsi.gov.uk.

Countdown bulletin update

With the recent election and purdah restrictions which were in place, HMRC have issued a further informal contracted-out reconciliation 'update' in place of a full countdown bulletin, which is attached as [appendix 3](#). HMRC plan to issue a full countdown bulletin again in July 2017.

Accounting for tax and the overseas transfer charge

On 7th June, the LGPC secretariat circulated an email to LGPS fund contacts containing a note from HMRC advising of changes to the Accounting for Tax return to take into account the introduction of the overseas transfer charge. The note from HMRC is also attached to this bulletin as [appendix 4](#).

Other News and Updates

Update following 2017 general election

Following the general election of 8th June and the subsequent formation of a Conservative minority government, Guy Opperman, MP for Hexham, has been appointed the new Minister for Pensions and Financial Inclusion in DWP.

Marcus Jones, MP for Nuneaton, remains the Minister for Local Government in DCLG with responsibility for the LGPS in England and Wales.

In the Queen's Speech on 21st June, the Government confirmed they would bring forward legislation in the next two years which will merge the Money Advice Service, the Pensions Advisory Service and Pension Wise into one body providing financial guidance. This follows [a consultation](#) on the proposal, which was undertaken last year.

The Government have also confirmed that the state pension triple lock will remain in place for the duration of this Parliament.

Further to an article included in [bulletin 157](#), there has been no formal clarification from the Government on whether they plan to proceed with the proposed reduction to the money purchase annual allowance (MPAA) from £10,000 to £4,000 and, if so, from when this reduction would be effective. (Before the general election was called, the Government had planned for this change to be effective from 6th April 2017.) When the Government confirms their position, an update will be included in a future bulletin.

Payments of deferred refunds and non-life assurance AVC pots attached to a deferred refund, in respect of deceased members

Since 6 April 2016, the Secretariat has received a number of queries concerning how to pay a refund of contributions where the member has died prior to payment. For completeness we have also addressed the payment of a non-life assurance AVC pot attached to a deferred refund, though we expect such cases to be few and far between.

The Secretariat was initially of the view that the refund of contributions should simply be paid to the personal representatives as a refund. This was because neither the 2008 nor the 2014 LGPS Regulations (1998, 2009 and 2015 LGPS (Scotland) Regulations) specifically stated that such a payment be treated as a Defined Benefit Lump Sum Death

Benefit (unlike the LGPS 1997 Regulations¹). However, we have recently had cause to review this position and accordingly the Secretariat put forward an alternative proposal, which was agreed by Technical Group on the 16 June 2017 as a consistent approach that should be adopted.

Technical Group agreed that the following monies should be paid under section 168 of the Finance Act 2004:

- Refund of contributions - where the member dies prior to payment this should be paid in the form of a Defined Benefit Lump Sum Death Benefit (DBLSDB) consisting of employee contributions plus interest (if any), less the Certified Amount, and
- Non-life-assurance AVC pot attached to a frozen refund - where the member dies prior to payment this should be paid in the form of an Uncrystallised Funds Lump Sum Death Benefit (UFLSDB)

The above payments will always be paid to a non-qualifying person² (e.g. a personal representative) and taxed by the scheme administrator as set out in the following table. It is important to note that neither of these payments can be paid to a nominee (because a nomination form only covers death grants prescribed within the LGPS regulations).

Therefore, where tax is appropriate in the table below:

- a refund which becomes a DBLSDB will always be taxed at a rate of 45%.
- a non-life assurance IHAVC Fund attached to a frozen refund will always be taxed at a rate of 45%.

Circumstance	Tax deducted by the Scheme Administrator
Member died prior to age 75 and payment made to a non-qualifying person within 2 years of when the Scheme administrator first knew of the date of death or within 2 years of when the Scheme administrator could first reasonably have been expected to have known about the death.	Taxed: Tax Free Legislation: Not present in Section 636AA of the Income Tax (Earnings and Pensions) Act 2003.
Member died prior to age 75 and payment not made to a non-qualifying person within 2 years of when the Scheme administrator first knew of the date of death or within 2 years of when the Scheme administrator could first	Taxed: 45% Legislation: Section 206(1B) & (4) Finance Act 2004

¹ Regulation 87(2B) of the LGPS Regulations 1997 stated "If a member dies before repayment of the contributions have been made, these shall be treated as a lump sum death benefit for the purposes of Part 2 of Schedule 29 to the Finance Act 2004". Therefore, people who left on or after:

- 1 April 1997 and prior to 1 April 2008, and
- 1 April 1974 and prior to 1 April 1997 (this group are covered by regulation 29 of the LGPS (Transitional Provisions) Regulations 1997)

must be dealt with in accordance with the LGPS Regulations 1997. Accordingly, the refund paid in respect of a deceased member should be treated as a defined benefit lump sum death benefit (DBLSDB) under section 168 of the Finance Act 2004.

² Section 206 of the Finance Act 2004 defines a non-qualifying person as someone who is receiving the payment in their capacity as a trustee (other than a bare trustee*), or in their capacity as a personal representative, director of a company, partner in a firm or member of a limited liability partnership. Note: "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.

reasonably have been expected to have known about the death.	
Member died on or after age 75 and payment made to a non-qualifying person within 2 years of when the Scheme administrator first knew of the date of death or within 2 years of when the Scheme administrator could first reasonably have been expected to have known about the death.	Taxed: 45% Legislation: Section 206(1A) & (4) Finance Act 2004
Member died on or after age 75 and payment not made to a non-qualifying person within 2 years of when the Scheme administrator first knew of the date of death or within 2 years of when the Scheme administrator could first reasonably have been expected to have known about the death.	Taxed: 45% Legislation: Section 206(1A) & (4) Finance Act 2004

Accordingly, the Secretariat will request that a change be made to the LGPS Regulations both in England & Wales and Scotland to clarify that such payments should be made as a Defined Benefit Lump Sum Death Benefit or, where relevant, an Uncrystallised Funds Lump Sum Death Benefit. Clearly any changes to the LGPS regulations will take time, and LGPS Funds may wish to adopt the above approach (and thus rely on section 168 of the Finance Act 2004) when making such payments prior to any change in the regulations.

Updates to LGPC guides

On 7th June, version 6.2 of the automatic enrolment full guide was published incorporating various amendments which were needed to bring the guide up to date. The updated guide is available under guides and sample documents on both www.lgpsregs.org and www.scotlgpsregs.org.

It is intended that this will be the final version of the full guide and, going forward, when further changes are needed, the guide will be removed and placed under 'withdrawn guides' instead. We have taken this decision because in 2017 automatic enrolment, for the most part, is simply 'business as usual' and the TPR website contains the vast majority of information needed by an employer.

To supplement the information provided by TPR the Secretariat plan to launch a new version of the automatic enrolment brief guide (late summer 2017) which will be maintained and contain detailed signposts to all of the relevant information on the TPR web-site. In addition, the brief guide will contain limited text that is relevant only to the LGPS and TPS. Prior to the launch of the new brief guide, we have removed version 6.1 of the current brief guide from the 'guides and sample documents' sections on our websites and placed this within the 'withdrawn guides' sections instead.

The HR and Payroll guides for LGPS 2015 in Scotland were also updated during June and are available on the guides and sample documents page of www.scotlgpsregs.org.

Funds in England and Wales should also be aware that the LGPC Secretariat plan to publish updated versions of the LGPS 2014 HR and Payroll guides shortly and, in the

process of doing this, the internal links will be updated so that these point at the right location within the new site.

PLSA annual survey 2017

For LGPS funds that are members of the Pensions and Lifetime Savings Association (PLSA), their annual survey of member pension schemes is currently open for completion.

The information collected in the survey is used to:

- Track key trends in the pension industry so the PLSA can lobby and influence Government and Regulators.
- Allow funds to benchmark themselves in relation to key metrics including investment strategies and governance.

PLSA have advised that funds that complete the survey get access to a report and benchmarking tool worth over £3,000.

The survey is open until Friday July 28th and members should have already received a link. If you have any questions or have not yet received your link please contact [Matthew Downer](#), Researcher at the PLSA.

Training

[Circular 304](#) has now been issued containing details of the LGA's 2017 Fundamentals training programme.

The 2017 events will incorporate all legislative changes since last year's programme (incorporating those related to "pooling") and all sessions will be refreshed to keep them up-to-date, relevant and interesting. Despite the year on year revision of course materials, the aim of the LGPC remains unaltered; that is to deliver a single training course covering all aspects of the Scheme, including "Benefits" and "Fund" administration as well as "Investments".

The fundamentals course is run on an annual basis and provides an insight into LGPS "trusteeship" for newly elected Committee/Board members, whilst also serving as an update/refresher course for longer-serving members. The course is of three days duration, spread over a number of months.

However, it is not limited solely to pensions committee and local pension board members. Past delegates have included trades union representatives, member and employer representatives, a variety of officers who attend/support committees and some private sector organisations who provide services to administering authorities.

Places on the courses may be booked via the following links:

Leeds	Day 1	4 October
	Day 2	1 November
	Day 3	5 December
London	Day 1	10 October
	Day 2	15 November
	Day 3	13 December

Cardiff	Day 1	18 October
	Day 2	29 November
	Day 3	20 December

In early June, the closing date for applications for the pensions adviser (training) post was extended to 28th June 2017 with interviews planned to be held on 12th July 2017.

Retirement of Tim Hazlewood

The LGA pensions team would like to extend their best wishes to Tim Hazlewood, the LGA's Pensions Training and Development Manager, on his forthcoming retirement.

Tim retires in July after a long and varied career in the LGPS, working for 28 years in total at the Leicestershire and Nottinghamshire funds before moving to the LGA and his current role in 2002.

Over the last 15 years, Tim has developed a highly valued LGPS training programme and has trained many thousands of pensions administrators, employers and pensions committee members up and down the country. Tim's training is always much loved for its humour and his ability to explain the complex workings of the LGPS in a straightforward manner and he will be much missed across the sector.

On behalf of the LGPS, we would like to extend Tim our warm thanks and wish him and his wife Alison all the best for the future.

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)*

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

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LGPC Secretariat
Layden House
76-86 Turnmill Street
London
EC1M 5LG
or email: [Con Hargrave](mailto:Con.Hargrave@lga.gov.uk)
tel: 020 7664 3176