

LGPC Bulletin 167 – February 2018

Please contact [Jayne Wiberg](#) 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 & Wales

AVC Risk Warnings

The LGPS Secretariat have been informed that Equitable Life have recently written to administering authorities to advise that they will no longer be able to disinvest members AVC funds unless they confirm that the member has been given a risk warning in accordance with [FCA handbook, COBS 19.7 Retirement Risk Warnings](#).

For the LGPS, the requirement to provide a risk warning is prescribed by [regulation 19A of the Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \[2013/2734\]](#) rather than the FCA handbook. The duty falls to the trustees or managers of the scheme i.e. the administering authority when a member is provided, or has been provided, with certain information about how they can access their AVC in addition to an application form or another method of access, which enables the member to take payment of their AVC. The duty does not fall to the AVC provider.

The LGPS Secretariat in conjunction with the Communications Working Group are currently working on a new Freedom and Choice AVC guide which contains template letters and a template risk warning for funds to use to fulfil the disclosure requirements. This guide is due to be published in March 2018. However, if any administering authorities require access to the draft risk warning urgently before this date please contact [Lorraine Bennett](#).

Contracted-out reconciliation exercise – February 2018 survey update

On 8 February 2018, the Secretariat issued a survey to administering authorities in England & Wales. The aim of the survey was to determine what stage administering authorities are at with their contracted-out reconciliation exercise.

We would like to express our thanks to the administering authorities who responded. As mentioned in our survey, where we received no response we have been obliged to record that as a 'stage 0 – have yet to start' response.

The results of the survey shows that administering authorities are at different stages in respect of their individual types of members (e.g. active, deferred and pensioners), so there will be some middle ground. The table overleaf shows 'worst' and 'best' case scenarios i.e. if an administering authority is at:

- stage 4 for pensioners and stage 2 for actives and deferred – then the 'worst' case scenario shows the administering authority at stage 2, or
- stage 4 for pensioners and stage 2 for actives and deferred – then the 'best' case scenario shows the administering authority at stage 4.

Clearly many administering authorities are somewhere in between, for example, an administering authority may have completed their pensioner member reconciliation, be part way through their deferred member reconciliation, though may only have just begun their active member reconciliation.

Stage	Description of Stage	No. of administering authorities at this stage	
		Worst case scenario	Best case scenario
Stage 0	Administering authority has yet to start the exercise	8	4
Stage 1	Compare administering authority data with HMRC data	20	13
Stage 2	Review data inconsistencies, raise with HMRC, agree outcome	51	42
Stage 3	Rectification	9	25
Stage 4	Reconciliation complete	0	4

Contribution bands for 2018/19

As confirmed in [bulletin 163](#), on 17 October 2017, the Office for National Statistics (ONS) announced that the Consumer Prices Index (CPI) rate of inflation for September 2017 was 3.0%. Government policy in recent years has been to base both pensions increase under the Pensions (Increase) Act 1971 and revaluation of pension accounts under section 9 of the Public Service Pensions Act 2013 on the rate of CPI for September of the previous year.

Further to the article later within this bulletin titled '[Public service pensions indexation and CARE revaluation 2018](#)' we expect the Pensions Increase (Review) Order to be published in March 2018 confirming that public service pensions will be increased from 9 April 2018 by 3%, in line with the annual increase in CPI up to September 2017.

Accordingly, the table below sets out the draft contribution bands, which will be effective from 1 April 2018. These are based on the pay bands for 2017/18 as increased by the September 2017 CPI figure of 3%, with the result rounded down to the nearest £100.

Draft Contribution table 2018/19			
Band	Actual pensionable pay for an employment	Contribution rate for that employment	
		Main section	50/50 section
1	Up to £14,100	5.5%	2.75%
2	£14,101 to £22,000	5.8%	2.9%
3	£22,001 to £35,700	6.5%	3.25%
4	£35,701 to £45,200	6.8%	3.4%
5	£45,201 to £63,100	8.5%	4.25%
6	£63,101 to £89,400	9.9%	4.95%
7	£89,401 to £105,200	10.5%	5.25%
8	£105,201 to £157,800	11.4%	5.7%

9	£157,801 or more	12.5%	6.25%
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Note:

On 20 February 2018, the Secretariat sent an email to administering authorities containing a draft contribution table for 2018/19. The table was revised and reissued on 21 February 2018 and altogether placed on hold on 22 February 2018. On 26 February 2018, the draft contribution table contained within this bulletin was agreed and published. The reason for the inconsistency was due to differing interpretations of regulation 9(4) and (5) of the [LGPS 2013 Regulations](#). One interpretation is that the appropriate increase is applied to the pay figures in the previous year’s table and then rounded down to the nearest £100. The alternative interpretation is that a cumulative pensions increase figure is applied to the 2014 pay bands as set out in regulation 9(2) and then rounded down to the nearest £100. We sought clarification from MHCLG who have confirmed that they are content that previous guidance issued on the same subject, but in relation to the 2008 Scheme, should stand i.e. that the pay bands should be revalued by applying the appropriate increase to the previous year’s pay bands and rounding down to the nearest £100.

High Court judgement in the case of Elmes v Essex - update

In [bulletin 166](#), we provided an update concerning the case of Nicola Elmes versus Essex County Council (with an interested party of MHCLG).

We confirmed that this case was heard before the High Court on Tuesday 18 January 2018 where it was declared that “*The requirement to nominate a person under regulations 24 and 25 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 is incompatible with Article 1 of the first Protocol to, and Art 14 of, the European Convention on Human Rights and must therefore be disapplied*”.

MHCLG have confirmed that they are waiting for the Judge’s reasoning to be issued, before deciding what the judgment means for the LGPS regulations. Once issued, it will be for MHCLG to take a legal view on the implications.

Insolvency regime for further education and sixth form colleges: technical consultation – LGA response

Further to the article in [bulletin 166](#), and an earlier article in [bulletin 147](#), the LGA responded to the above consultation on 7 February 2018. A copy of the response can be found on www.lgpsregs.org under [non-scheme consultations](#).

The Sub-national Transport Body (Transport for the North) Regulations 2018 [SI 2018/103]

The above [regulations](#) were made on 22 January 2018 and come into force on 1 April 2018. Regulation 19(6) amends schedules 2 and 3 of the LGPS Regulations 2013 and inserts Transport for the North as a new designating scheme employer.

LGPS Scotland

SPPA Circular 1/2018 – overpayments arising from the contracted-out reconciliation exercise

On the 8 February 2018, SPPA published [circular 1/2018](#) and a [short update](#) on their website. The purpose of this circular is to:

- a) confirm how Guaranteed Minimum Pension (GMP) related overpayments which arise from the contracted-out reconciliation exercise should be managed going forward and
- b) provide information that the Accountable Officer may wish to take into account when deciding on how accrued GMP related overpayments are managed.

Ongoing overpayments

Scottish Ministers have decided that the approach to be taken concerning overpayments arising from the contracted-out reconciliation exercise should be in keeping with a similar exercise that took place in 2008/2009:

- any LGPS pension in payment affected by this exercise should not be reduced
- the identified GMP related overpayment should be converted into an ‘increased pension entitlement’ (IPE) allowing the pension to continue at its existing level (the IPE will be an authorised payment for tax purposes because the scheme rules are been amended – [regulation 14\(5\) Registered Pension Scheme \(Authorised Payments\) Regulations 2009 \[SI 2009/1171\]](#)¹)
- SPPA will commence work on drafting legislation to support this approach and in the meantime an IPE should be awarded administratively pending the finalisation and coming into force of the Regulations, and
- administering authorities should keep a note of each IPE awarded and the amount involved, as SPPA will need to reconcile the number and level of awards made.

Accrued overpayments

The responsibility for deciding what action should be taken on the accrued overpayments arising from the contracted-out reconciliation exercise rests with the administering authorities Accountable Officer (AO). SPPA Circular 1/2018 sets out what the AO may wish to consider when deciding on the recoverability of such overpayments, extracted in part from the content of the [information note](#)² issued by the LGPC Secretariat, to administering authorities in England & Wales on 9 June 2017. In addition, the circular expands on the LGPC [information note](#)² by referring to the:

- Scottish Government Finance Manual (SGFM), although this manual does not directly apply to LGPS administering authorities, its content may be used for guidance, and
- Prescription and Limitation (Scotland) Act 1973 (“the 1973 Act”)

HMRC

Countdown bulletin 32

On 23 February 2018, HMRC published [countdown bulletin 32](#) including articles on:

- Termination and transfer notices – [countdown bulletin 29](#) confirms that with the introduction of the new State Pension (nSP) from 6 April 2016, pension scheme administrators (PSAs) no longer need to submit termination and transfer notices where the period of contracted-out ends or transfers after 5 April 2016.

¹ [SI 2009/1171] - 14(5) “A payment is within this paragraph if it is made while the scheme administrator is in the process of amending the rules of the scheme so that such payments or payments in such amounts will be permitted by the pension rules or the pension death benefit rules (as the case may be), provided the scheme administrator has not taken an unreasonable amount of time to amend the rules”.

² The [information note](#) 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.

- Contributions Equivalent Premium (CEP) or Limited Revaluation Premium (LRP) refunds due to post 5 April 2016 Transfers – further to our article in [bulletin 166](#) this latest countdown bulletin confirms that following advice from DWP Policy, HM Revenue and Customs (HMRC) are introducing a process to allow PSAs to claim a CEP or LRP refund where a post 5 April 2016 transfer of membership or liability has taken place. Details of how to reclaim a CEP are set out within [countdown bulletin 32](#).
- Matched members not showing on SRS refreshed output
- Secondary type 5 queries
- Data limit for query templates sent for an automated solution.

New Pensions Online service - User research

On 16 February 2018, the Secretariat forwarded an email to all administering authorities from HMRC regarding the new pension's online service. In [pension schemes newsletter 89](#) HMRC explained how, from April 2018, they will move pension scheme registration and administration onto a new digital platform – the 'Pensions Online Digital Service' so that they can improve the service for pension scheme administrators. They also explained how their user researcher, Cay Green, is looking to speak with different pension scheme administrators and pension practitioners as part of their ongoing user research.

HMRC would like some more public sector schemes to be involved in this research. If an administering authority is interested in participating in such user research, please contact [Cay Green](#).

Pension Schemes Newsletter 95

On 31 January 2018, HMRC published [pension schemes newsletter 95](#) including articles on:

- pension flexibility statistics
- relief at source for Scottish Income Tax
- updates to form APSS146E
- new pensions online service
- information powers and Schedule 36 of the Finance act 2008
- reporting of non-taxable death benefits
- change to postal address.

In particular, in relation to the new pensions online service, administering authorities need to confirm that their details are correct and up to date on the existing online service. Also, in readiness to migrate pension schemes to the new service, HMRC have started to look at pension scheme accounting and have identified some outstanding AFT charges on the existing service. Consequently, they will soon be writing to scheme administrators setting out any outstanding AFT charges.

Other News and Updates

Communications working group

Minutes of the communications working group meeting held on 30 January 2018 have now been uploaded to www.lgpsregs.org on the communications working group [page](#). The minutes include details of what the group are currently working on including the production of a member guide to AVCs and a member FAQ on GDPR – both documents are due to be published shortly.

LGPS technical queries – central email address

Since September 2015, the Secretariat has operated a central technical query email address that stakeholders can use to raise technical queries. This is mentioned at the beginning of the 'Pensions Section Contact Details' of each bulletin.

We have noticed that users, when raising technical queries, are increasingly emailing LGPS team members directly. The central email address is monitored by members of the LGPS pension's team. Thus, when members of the team are engaged in other areas of LGPS work, other team members can pick up any technical queries.

We would be grateful if you could refrain from emailing team members directly with technical queries and instead use the central email address of query.lgps@local.gov.uk. Thereafter, one of the team's LGPS pension advisers will get back to you as soon as possible.

Pensions Dashboard Update

On 13 February 2018, the LGPS Secretariat attended an informal discussion with DWP and other public service pension schemes about the Pensions Dashboard. DWP are in the process of conducting a feasibility project to explore the options for delivering the pensions dashboard as part of this work they are seeking the input and views from stakeholders.

DWP have undertaken user research, the results of which show a consensus around there being a preference for a single dashboard with a single point of access along with a preference for the dashboard to be government led.

Results from the feasibility study will be published at the end of March 2018.

Public service pensions indexation and CARE revaluation 2018 – written statement

On 21 February 2018 in [a written statement](#) by the Chief Secretary to the Treasury to the House of Commons, it was confirmed that:

- Public Service pensions will be increased from 9 April 2018 by 3%, in line with the annual increase in CPI up to September 2017, except for those public service pensions that have been in payment for less than a year, which will receive a pro-rata increase (the Secretariat issued by email the PI multiplier tables on 26 February 2018 which are due to be published on HMT's website).
- CARE accrual in the new public service pension schemes that increase in line with prices, will increase in line with the annual increase in CPI up to September 2017 by 3%, plus any increase to the index rate adjustment specified in scheme regulations on 1 April 2018.

Accordingly, we expect the Pensions Increase (Review) Order and the Public Service Pension Schemes Revaluation Order to be published in March 2018.

Secretary of State Guidance / Scottish Ministers Guidance – GMP adjustment addendums

In [bulletin 166](#) we reported that HMT had published its [response](#) to the consultation on the options for the indexation of GMP elements for members of public service pension schemes who will reach State Pension age (SPa) on and after 6 December 2018. The response confirmed that the government had been implementing an "interim solution"

between 6 April 2016 and 5 December 2018 and that this will be extended to cover those members of public service schemes with a GMP who reach SPa on or after 6 December 2018 and before 6 April 2021.

We also confirmed in [bulletin 166](#) that the outcome of the consultation may have an effect on the calculation of CETV In/Out and CETV on Divorce. Section 11 of the Secretary of State guidance title '[Individual incoming and outgoing transfers](#)' dated 8 April 2016 and the '[Non Club GMP adjustment addendum](#)' dated 19 April 2016 issued by Scottish Ministers, both contain adjustments to the CETV where the member has an entitlement to a GMP. These adjustments apply, in prescribed circumstances, where the members SPa falls between 6 April 2016 and 5 December 2018 inclusive (the existing 'interim period').

We understand that similar adjustments, covering those members whose SPa falls between 6 April 2018 and 5 April 2021 inclusive, will be contained in additional addendums to be issued by the Secretary of State and Scottish Ministers. These addendums will be issued shortly though we cannot confirm the date of issue nor their effective date.

Tell Us About a Death

On 27 February 2018 the LGPC Secretariat forwarded the request below from DWP to administering authorities:

DWP are currently doing some work to explore how we can develop a new service (Tell Us About a Death) which will enable citizens to report a death more quickly and easily than the current TUO method. For example, we are envisioning that TUAAD would:

- *Be used to log a death on the day itself, allowing services/payments to be suspended earlier with an informal death notification*
- *Ask for minimum information about the deceased to match to data we should already hold, removing the reliance on the user entering a lot of data and allowing only the necessary departments to receive a notification*
- *Provide feedback to the user to let them know of progress to reduce the need to contact departments and duplicate death notifications/progress chase*

We are currently in Alpha and working to establish what and how we could achieve this. As part of our research and to shape our business case we are contacting our stakeholders/current TUO users to identify and quantify the benefits of our proposed service.

*We are hoping to receive input from LGPS Funds by **Friday 2nd March** to help steer our business case and have attached the type of questions we would like to get answers to as part of this. We would be more than happy to set up a call if preferred or for responses to come through email.*

Please respond directly to Hannah Wood at DWP either by email or phone: HANNAH.WOOD2@DWP.GSI.GOV.UK; or Tel: 07905653866

The Finance Act 2004 (Standard Lifetime Allowance) Regulations 2018 [SI 2018/206]

The above [regulations](#) were made and come into force on 20 February 2018. The regulations increase the standard lifetime allowance from £1,000,000 to £1,030,000 for 2018/19.

The Pensions Advisory Service dispute function moves to the Pensions Ombudsman

The Secretariat has been notified that the Pensions Advisory Service's (TPAS) dispute resolution function is moving to The Pensions Ombudsman (TPO). The move includes the transfer of the TPAS dispute resolution team and volunteer network of over 350 advisers. The transfer is expected to be completed by 1 March 2018.

At present customers can approach both TPO and TPAS for help when dealing with a pension complaint. TPAS usually focussed on complaints before the pension scheme's internal dispute resolution procedure (IDRP) had been completed, whilst TPO typically deals with complaints that have been through IDRP.

We have been advised that this transfer of functions will simplify the customer journey. Customers will be able to access all pension dispute resolution, previously handled by two services, whether pre or post IDRP, in one place. Leading to a smoother customer journey and improved complaint handling. TPAS will continue to focus on providing pension information and guidance, and will become an integral part of the new Single Financial Guidance Body.

TPO have requested that all signposting for customers be changed to the following:

- *If you have a complaint or dispute with your pension provider concerning your workplace or personal pension arrangements you should contact The Pensions Ombudsman*

Telephone: 0800 917 4487

Website: www.pensions-ombudsman.org.uk

- *If you need information and guidance concerning your pension arrangements contact The Pensions Advisory Service*

Telephone: 0300 123 1047

Website: www.pensionsadvisoryservice.org.uk

The Pensions Regulator (TPR) – Managing service providers

On the 22 February 2018, TPR published [a statement](#) covering the management of service providers. The statement has been published due to the significant recent attention on companies providing outsourced services to government and industry, including pension schemes. It summarises TPR's expectations of good practice by trustees and scheme managers on the management of service providers, and planning for events, which could have major consequences for pension schemes, including the failure of service providers.

Training

In [bulletin 166](#) we mentioned that we would be issuing two short training surveys for administering authorities and employers this month. These surveys are currently being finalised and will be sent out shortly. We would be grateful for your responses to help inform our programme going forward.

Meanwhile if you have any training requests for the year going forward please do contact training.lgps@local.gov.uk

The wider landscape

The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2018 [SI 2018/237]

On 26 February 2018, the government published its [response](#) to the consultation on the draft regulations named above. The above [regulations](#) are due to come into effect on 6 April 2018 and introduce a new option that will enable employers in multi-employer pension schemes to defer the requirement to pay an employer debt on ceasing to employ an active member. The deferred debt arrangement will be subject to a condition that the employer retains all their previous responsibilities to the scheme.

Legislation

United Kingdom

SI	Reference Title
2018/240	The Occupational Pension Schemes (Preservation of Benefits and Charges and Governance) (Amendment) Regulations 2018
2018/237	The Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2018
2018/234	The Contracting-out (Transfer and Transfer Payment) (Amendment) Regulations 2018
2018/233	The Occupational Pension Schemes (Administration and Disclosure) (Amendment) Regulations 2018
2018/218	The Teachers' Pensions Schemes (Amendment) Regulations 2018
2018/207	The Financial Assistance Scheme (Increased Cap for Long Service) Regulations 2018
2018/206	The Finance Act 2004 (Standard Lifetime Allowance) Regulations 2018
2018/186	The Public Service Pensions Act 2013 (Judicial Offices) (Amendment) Order 2018
2018/150	The Registered Pension Schemes (Relief at Source) (Amendment) Regulations 2018
2018/103	The Sub-national Transport Body (Transport for the North) Regulations 2018
2018/95	The Pension Protection Fund (Compensation) (Amendment) Regulations 2018

Useful Links

[LGA Pensions page](#)

[LGPS member website](#) (England and Wales)

[LGPS 2015 member website](#) (Scotland)

[LGPS Advisory Board website](#) (England and Wales)

[LGPS Regulations and Guidance website](#) (England and Wales)

[LGPS Regulations and Guidance website](#) (Scotland)

[Public Sector Transfer Club](#)

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

Pensions Section Contact Details

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

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Con Hargrave (Pensions Adviser – LGPC Secretariat) - currently on secondment to MHCLG (see bulletin 165)

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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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