

LGPC Bulletin 171 – (Revised May 2018 July 2018)

[This bulletin provides a](#) commentary for LGPS administering authorities in England and Wales on the changes to the LGPS introduced by the Local Government Pension Scheme (Amendment) Regulations 2018 ([SI 2018/493](#)). [It was first published in May 2018 and subsequently updated in July 2018. The updates clarify our understanding in certain areas and reflect the outcome of discussions with MHCLG \(where appropriate\). The updates are shown in track changes.](#)

Background

On 27 May 2016, the Ministry for Housing, Communities and Local Government (MHCLG) opened a [consultation](#) on proposed changes to the LGPS in England and Wales. On 19 April 2018, the LGPS (Amendment) Regulations 2018 were laid before parliament; MHCLG [responded](#) to the consultation on the same day.

The regulations come into force on 14 May 2018 but the provisions listed in regulation 1(3) have effect from 1 April 2014. The regulations amend the LGPS Regulations 2013 [[SI 2013/2356](#)] and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [[SI 2014/525](#)].

Disclosure Requirements

LGPS administering authorities will need to communicate the changes to scheme members, as required under regulation 8 and Part 1 of Schedule 2 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [[SI 2013/2734](#)]. Communication of the changes should take place as soon as possible, and in any event, within three months of the date of change (i.e. by 14 August 2018). The Communications Working Group are meeting on 16 May 2018 and will discuss producing a newsletter for administering authorities to use – we will keep you posted on progress with this.

Updates to online resources

We will update the technical guides, member communications and the national LGPS member [website](#) in due course.

The changes

New policy

- [Admission agreement changes \(updated\)](#)
- [Requirement to pay an exit credit to exiting employers \(updated\)](#)
- [Payment of deferred benefits at age 55 for leavers before 1 April 1998 \(updated\)](#)
- [Payment of deferred benefits from age 55 for leavers between 1 April 1998 and 31 March 2008 \(updated\)](#)

- [Payment of deferred benefits from age 55 for leavers between 1 April 2008 and 31 March 2014 \(updated\)](#)
- [Expansion of the underpin](#)
- [Alignment of pre and post 2014 AVC contracts \(updated\)](#)

Technical amendments to deliver policy intent

- [Change to the definition of local government service](#)
- [Cancellation of membership of the 50/50 section](#)
- [Contributions during absence from work](#)
- [Calculation of assumed pensionable pay \(APP\) \(updated\)](#)
- [Benefits payable where a member is dismissed on the grounds of redundancy or business efficiency](#)
- [Maximum tax-free lump sum payable from an AVC plan started on or after 1 April 2014](#)
- [Inclusion of ill health enhancement when calculating survivor benefits](#)
- [Lifetime allowance protections](#)
- [Scheme employer additional payments in respect of early retirement \(regulation 30\(5\)\)](#)
- [Transfers](#)
- [Clarification of the definitions: partner, statutory pay and revaluation adjustment](#)
- [Connected scheme employers reference corrected](#)
- [Aggregation – clarification of NPA](#)
- [Aggregation – introduction of a time limit](#)
- [Correction to include additional contributions paid before 1 April 2014 in a refund paid under the 2013 Regulations](#)

Proposed changes not taken forward

Fair Deal – in its response to the consultation MHCLG confirm that, in view of the range and diversity of issues highlighted in the consultation responses, they will not be introducing Fair Deal into the LGPS at this time. However, they state they still remain committed to introducing Fair Deal into the LGPS and intend to commence a consultation on new proposals for achieving this by the end of the year.

AVCs – the Uncrystallised Funds Pension Lump Sum (UFPLS) option will not be introduced directly into the LGPS Regulations due to the substantial administrative complexities that would be created. The complexities would primarily be due to difficulties in standardising procedures among the large number of AVC providers. If a member wishes to use their AVC to take one or more UFPLS, they can do this by transferring their AVC out of the LGPS.

Aggregation – the proposal to end the automatic aggregation of pension accounts where a member with a deferred benefit becomes active again is not being taken forward. MHCLG concluded that introducing these changes would not be consistent with Schedule 7 of the Public Service Pensions Act 2013, which provides that final salary protection must be provided where a member re-joins a public service pension scheme within five years of leaving their previous public service pension scheme.

Change to the definition of local government service

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
<p>Regulations - 3, 4(1), 4(3), 8(b), 12, 18, 19, 20(b) and 25</p>	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> • New reg 2(1A) • New reg 2(1B) • New reg 2(1C) • Amends reg 3(1) • Amends reg 3(2) • New reg 30(12A) • New reg 51(9) • Amends reg 102(3) • New reg 102(3)(c) • Schedule 1 <p>LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014:</p> <p>New reg 7(5A)</p>	<p>14 May 2018 (with the exception of regulation 8(b) which amends regulation 30 with effect from 1 April 2014)</p>	<p>The definition of local government service has changed to align the admission body provisions within the LGPS more closely with the Public Service Pensions Act 2013.</p> <p>Prior to the change ‘local government service’ is defined as meaning an employment by virtue of which the person employed is or has been a member of the Scheme (paragraph 1 of Schedule 1). This definition means that members who had opted out within three months of joining would not be deemed to be in local government service by virtue of regulation 5(5).</p> <p>From 14 May 2018, ‘local government service’ is defined as an employment with a body specified in Part 1 of Schedule 2. A person is deemed to be in ‘local government service’ if that person is employed by a designated body and the person is designated as being eligible for membership, or the person is specified in column 1 of Part 4 of Schedule 2 e.g. employed by the</p>	<p>Technical amendment</p> <p>There is no change to the eligibility criteria of the scheme. The changing of the definition is simply a technical amendment to align with the wording of Section 25 of the Public Service Pensions Act 2013.</p> <p>The amendment has a couple of unintended changes however:</p> <p>1. The new definition makes it clear that a member can draw a pension in respect of an employment where they are no longer eligible for membership in that employment e.g. where an admission agreement designated the employee to be eligible for membership but the admission agreement has ceased to have effect. This would also apply where an employee of a Part 2 of Schedule 2 body is no longer eligible for membership because the employer no longer designates them for membership.</p>

			<p>governing body of a foundation or voluntary school.</p> <p>New regulation 3(1C) states that the scheme may potentially relate to a person employed by an admission body. It follows that persons employed by admission bodies are therefore not in local government service. Therefore, each regulation in the LGPS 2013 Regulations that references 'local government service' (i.e. regulation 30, 51 and 102) now set out that 'local government service' includes employment in respect of which the member satisfies the conditions in regulation 3(1)(b) i.e. where the member is eligible for membership of the scheme with an admission body.</p>	<p>2. Before 14 May 2018, a deferred member of the 2014 scheme who re-joined the LGPS and opted out within three months of re-joining would not be treated as being in local government service in respect of the second employment by virtue of regulation 5(5). This member would be able to take payment of any bare GMP in respect of the deferred benefit from pensionable age (age 60 for women and 65 for men) under regulation 51.</p> <p>From 14 May 2018, the change in the definition of local government service means this member would now be deemed to be in local government service and would no longer be eligible for payment of their bare GMP at pensionable age under regulation 51. We have raised the issue with MHCLG and await a response.</p>
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Publication of admission agreements

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulations 4(2), 21(b)(i) and 31	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> New reg 3(1A) 	14 May 2018	<p>New admission agreements established on or after 14 May 2018</p> <p>When an administering authority makes an admission agreement it no longer</p>	<p>New policy</p> <p>These changes are made with reference to section 25(9) of the Public Service Pensions Act 2013</p>

	<ul style="list-style-type: none"> • Deletes para 11 in Sch 2 of Part 3 		<p>has to keep a copy available for public inspection at its offices or inform MHCLG of the below:</p> <ol style="list-style-type: none"> The date the agreement takes effect The admission body's name, and The name of any Scheme employer that is party to the agreement. <p>However, the administering authority must publish a list of the persons included in admission agreements to which it is party and keep the published list up to date.</p> <p>Admission agreements made before 14 May 2018 - the administering authority must publish a list of the persons included in admission agreements to which it is party within 12 months i.e. by 13 May 2019.</p>	<p>Whilst there is no detail as to what “a list of the persons included in admission agreements to which it is party” actually means, MHCLG have confirmed that administering authorities should not publish a list of the names of members designated for membership by an admission agreement.</p> <p>In our view, the publication of the pension fund annual report will meet this requirement as the report must include a full list of employers split between scheduled and admitted bodies. Administering authorities are required to publish the annual report by the 1 December following the end of the scheme year.</p> <p>Should it transpire that more detail needs be included in the list in order to comply with new regulation 3(1A)(b), we will raise the issue with the CIPFA pensions panel with a view to including any additional information requirement in the ‘Preparing an Annual Report’ document, which carries the weight of statutory guidance.</p>
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Backdating of admission agreements				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 21(b)(ii)	LGPS Regulations 2013: <ul style="list-style-type: none"> New para 14 of Part 3 of Sch 2 	1 April 2014	The start date of an admission agreement may be earlier than the date the admission agreement is completed.	<p>New policy This change is made with reference to section 25(10) of the Public Service Pensions Act 2013.</p> <p>Administering authorities and scheme employers may find this change useful where there are delays in finalising admission agreements, or where they are simply unaware that an outsourcing has taken place.</p>
Cancellation of membership of the 50/50 section				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 5	LGPS Regulations 2013: <ul style="list-style-type: none"> Amends reg 10(5) 	1 April 2014	<p>To make clear that where a member is contributing to the 50/50 section of the scheme, membership of that section is cancelled from the beginning of the first pay period after:</p> <p>a) the member's automatic re-enrolment date, or</p>	<p>Technical amendment to deliver policy intent Prior to this amendment, the regulation could have been incorrectly interpreted to mean that the member had to satisfy both requirements (a & b) before</p>

			b) the member goes onto nil pay as a result of sickness, injury, or child-related leave provided that the member is still on no pay at the beginning of that pay period.	membership of the 50/50 section ceased. Scheme employers should have been applying the regulations in their intended format, as per section 8 of the HR Guide to the 2014 Scheme .
Contributions during absence from work				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 6	LGPS Regulations 2013: <ul style="list-style-type: none"> Amends reg 11(4) 	1 April 2014	<p>The words below are deleted from the end of regulation 11(4)</p> <p><i>“and if in receipt of any pay, the member continues to accrue earned pension in accordance with regulation 23(4) or (5) (active member's pension account)”</i></p>	<p>Technical amendment to deliver policy intent</p> <p>Before the change, the regulation could be interpreted incorrectly to mean that where a member is on either child related leave, reserve forces leave or on leave due to sickness, they would only be credited with earned pension if they were in receipt of pensionable pay. Members deemed to be in receipt of pensionable pay under regulation 21 (assumed pensionable pay) would have been excluded.</p> <p>Scheme employers should have been applying the regulations in their intended format, as per</p>

section 4.2 of the [Payroll Guide to the 2014 Scheme](#).

Calculation of assumed pensionable pay (APP)

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 7	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> • Amends reg 21(4) • New reg 21(5A) • New reg 21(5B) • New reg 21(5C) 	1 April 2014	<p>1. Where APP applies, regulation 21(4) sets out how APP is calculated. However, there may be occasions where the outcome of the prescribed calculation is, in the employer’s opinion, materially lower than the actual level of pensionable pay the member would normally receive had they been at work. In these circumstances, the employer may substitute a higher level of pensionable pay than the APP value to reflect the level of pay the member would normally have received when calculating APP.</p> <p>In making such a determination, the scheme employer must have regard to the pensionable pay received by the member in the previous 12 months. If the member has not received any pensionable pay in the previous 12 months, this does not prevent an employer from making a determination</p>	<p>Technical amendment to deliver policy intent</p> <p>The changes are introduced to align the regulations with what is likely to be happening in practice, where:</p> <ul style="list-style-type: none"> • a member receives no pay in the 3 months or 12 weeks preceding an absence, or • earnings are derived from fees in respect of a returning/acting returning officer. <p>As mentioned, it is likely these changes are amending the regulations to reflect what is already current practice and may already be written into the scheme employer’s policy document. However, if this is not the case, scheme employers should:</p> <ul style="list-style-type: none"> • consider whether they wish to use the new discretion to increase the value of APP. This should be documented in

			<p>to substitute a higher level of pensionable pay.</p> <p>2. Where APP applies for a returning or acting returning officer (whose pensionable earnings are derived from fees), APP should be calculated as the annual average of the pensionable pay relating to those fees during the three years (or the average of the length of membership if this is less than 3 years) preceding the absence, ill health retirement or death.</p>	<p>a revision to their discretionary policies setting out the circumstances (or not) for use.</p> <ul style="list-style-type: none"> • consider whether they wish to review any historical cases given that the change is backdated to 1 April 2014. • ensure that the calculation of APP in respect of returning/acting returning officer fees are averaged appropriately.
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Benefits payable where a member is dismissed on the grounds of redundancy or business efficiency

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 8	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> • Amends reg 30(7)(b) 	1 April 2014	To make clear that where an active member, aged 55 or over, is dismissed from an employment on the grounds of redundancy or business efficiency, or whose employment is terminated by mutual consent on business efficiency, only the benefits derived from the member's active pension account are payable without reduction under this regulation.	<p>Technical amendment to deliver policy intent</p> <p>Before the amendment, the regulation could be incorrectly interpreted to mean that any un-aggregated period of membership in relation to the same employment would also be payable unreduced. For example, where the member opted out, was awarded deferred benefits, opted back in again and was subsequently made redundant.</p>

				Administering authorities and scheme employers should have been applying the regulations in their intended format, as per section 14 of the HR Guide to the 2014 Scheme .
Maximum tax free lump sum payable from an AVC plan established on or after 1 April 2014				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 9	LGPS Regulations 2013: <ul style="list-style-type: none"> Amends reg 33(2) 	14 May 2018	To make clear that the maximum tax-free lump sum payable from an AVC plan (established on or after 1 April 2014) is limited to 100% of the value of the AVC plan.	<p>Technical amendment to deliver policy intent</p> <p>Prior to this amendment, the regulation could have been interpreted to mean that a maximum tax-free lump sum of up to 125% of the value of the AVC plan (established on or after 1 April 2014), could have been paid (although this would have been an unauthorised payment under the Finance Act 2004).</p> <p>Although administering authorities should already be implementing the policy intention, the paragraph 2.7 of the extant Secretary of State guidance (Limit on cash commutation – consolidated working copy – dated 26 March 2014 / amended up to July 2015)</p>

				will need to be updated to reflect the correct position.
Inclusion of Tier 1 and Tier 2 enhancement when calculating survivor benefits				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 10	LGPS Regulations 2013: <ul style="list-style-type: none"> • Amends reg 47(4)(a) • Amends reg 48(4)(a) • Amends reg 48(5)(a) • Amends reg 48(9)(a) • Amends reg 48(10)(a) 	1 April 2014	To make clear that where survivor benefits are payable upon the death of a member who was in receipt of a Tier 1 or Tier 2 ill health pension under the 2014 Scheme, a proportion of the ill health enhancement is fed into the calculation of any survivor benefits	<p>Technical amendment to deliver policy intent</p> <p>Prior to this amendment, the regulation could be incorrectly interpreted to exclude such enhancements.</p> <p>Administering authorities should have been applying the regulations in their intended format, as per section 8 of the now withdrawn LGPS 2014 course notes for practitioners.</p>
Lifetime allowance protections				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 11	LGPS Regulations 2013: <ul style="list-style-type: none"> • Amends reg 50(2) 	1 April 2014	To make clear that in determining a member's lifetime allowance, primary, enhanced, fixed and individual protection may be taken into account, as appropriate.	<p>Technical amendment to update regulations with over-riding legislative changes</p> <p>Prior to this amendment, the regulation could have been incorrectly interpreted to mean that</p>

				<p>in determining a member's lifetime allowance only primary, enhanced and fixed protections could be taken into account.</p> <p>Administering authorities should already be implementing the policy intention, although the extant Secretary of State guidance (Limit on total amount of benefits – lifetime allowance – dated 14 April 2016) requires updating to include fixed protection 2016 and individual protection 2016.</p>
Requirement to pay exit credits				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 13	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> • Amend reg 64(1) • Amends reg 64(2) • New reg 64(2ZA) • New reg 64(2ZB) • Amends reg 64(8) 	14 May 2018	<p>These amendments provide for the payment of an exit credit by the appropriate administering authority to an exiting employer.</p> <p>An exit credit is the amount the administering authority is required to pay an exiting employer to meet the excess of assets in the fund relating to that employer over the liabilities.</p> <p>An exiting employer is an employer that:</p>	<p>New policy</p> <p>The policy allows administering authorities to pay exit credits where an exiting employer's liabilities are fully funded and there is a surplus of assets in the pension fund.</p> <p>Administering authorities should discuss with their fund actuary their approach to the payment of an exit credit. Contractual changes may be needed to admission agreements already containing</p>

			<ul style="list-style-type: none"> • ceases to be a scheme employer (including ceasing to be an admission body participating in the scheme), or • is or was a scheme employer, but irrespective of whether that employer employs active members contributing to one or more other funds, no longer has an active member contributing towards a fund which has liabilities in respect of benefits in respect of current and former employees of that employer. <p>An exit credit must be paid by the administering authority to an exiting employer within 3 months of the date on which the employer ceases to be a scheme employer (or such a longer time as agreed between the administering authority and the exiting employer).</p> <p>Once an exit credit is paid, no further payments are due from the administering authority in respect of any surplus assets relating to the benefits of any current or former employees of the exiting employer.</p>	<p>similar provisions so as not to duplicate such entitlements or put funds at risk where negative liabilities are been retained by the fund on the assumption that any excess liabilities would also be retained.</p> <p>Where an employer becomes an exiting employer the administering authority must obtain:</p> <p>(a) an actuarial valuation as at the exit date of the liabilities of the fund in respect of benefits in respect of the exiting employer's current and former employees; and</p> <p>(b) a revised rates and adjustments certificate showing the exit payment due from the exiting employer or exit credit payable to the exiting employer in respect of those benefits.</p> <p>Note, regulation 64(2A) allows the administering authority to suspend an employer's liability to pay an exit payment for up to three years, where, in the reasonable opinion of the administering authority, the employer is likely to have one or more active members contributing to the fund within the period specified in the suspension notice. There is no corresponding</p>
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				<p>provision to suspend payment of an exit credit.</p> <p>The tax position of an exit credit payment is unclear. We understand MHCLG are querying this with HMRC.</p> <p><u>Update 24 July 2018:</u> <u>The LGPC Secretariat confirmed in an email to funds on 24 July 2018 that HMRC have made the pronouncement below in relation to exit credits payable to former scheme employers:</u></p> <p><u><i>“I can now confirm that there will be no tax charge on the payment and that there is no requirement for the scheme administrator of the pension scheme (or sub-scheme administrator of the sub-scheme) to report the payment to HMRC”.</i></u></p>
Scheme employer additional payments in respect of early retirement (regulation 30(5))				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 14	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> Amends reg 68(2) 	1 April 2014	The change clarifies that if a strain cost is payable in respect of regulation 30(5) (early retirement) because the scheme employer agrees to waive early retirement reductions, the administering authority may require the scheme	<p>Technical amendment to deliver policy intent</p> <p>Prior to this amendment, the regulations had inadvertently missed this cost from the list of additional payments that a scheme</p>

			employer to make an additional payment to the fund.	<p>employer may be required to make to a fund.</p> <p>It is unlikely that this oversight has prevented administering authorities from recovering such additional payments. However, if this is the case, because these amendments are backdated to 1 April 2014, recovery of such costs is now possible.</p>
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Transfers

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 15(a)	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> Amends reg 96(1) 	14 May 2018	To make clear that where a member transfers their benefits out of the scheme, they do so under Chapters 1 or 2 of Part 4ZA of the Pension Schemes Act 1993.	<p>Technical amendment to update regulations with over-riding legislative changes</p> <p>Prior to this amendment, the regulations incorrectly referenced revoked legislation within the Pensions Schemes Act (PSA) 1993.</p> <p>Administering authorities should already be implementing the appropriate over-riding legislation, by virtue of the commentary within the now withdrawn Freedom and Choice guide. In due course, further amendments will be made</p>

				to regulation 96 to account for pension credit members transferring their benefits out of the scheme under Chapter II Part IVA of the PSA 1993.
Transfers				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 15(b), 16, 17, 20(a) and 20(d)	LGPS Regulations 2013: <ul style="list-style-type: none"> • New reg 96(1A) • New reg100(8) • Amends reg 101(2) • Amends Sch 1 	1 April 2014	To make clear that where a club transfer is performed this should comply with the provisions of the club memorandum. Additionally, Schedule 1 of the LGPS 2013 Regulations now includes the definition of both the club memorandum and a club transfer.	<p>Technical amendment to deliver policy intent</p> <p>Prior to this amendment administering authorities relied on the instructions within the Secretary of State guidance covering Individual Incoming and Outgoing transfers, in which paragraph 1.16 made clear that the Club memorandum should at all times be complied with.</p> <p>MHCLG have confirmed that the Secretary of State guidance will continue to include guidance for club transfers to cover areas that are specific to the LGPS and not covered in the club memorandum.</p>
Regulation 26(a)	LGPS (Transitional Provisions, Savings	1 April 2014	To make clear that a transfer from another public service pension scheme	<p>Technical amendment to deliver policy intent</p> <p>Prior to this amendment the regulations did not address</p>

	<p>and Amendment) Regulations 2014:</p> <ul style="list-style-type: none"> Amends reg 9(1) 		<p>(PSPS) can be in relation to final salary benefits built up on or after 1 April 2015.</p>	<p>transfers in respect of members who had remained in the final salary pension scheme of another PSPS after the effective date of the introduction of that scheme's new CARE scheme (i.e. after 1 April 2015) .</p> <p>Administering authorities should already be implementing the policy intention by virtue of paragraph 7.2 of the Secretary of State guidance covering Individual Incoming and Outgoing transfers, which makes clear that final salary transfers, whilst typically related to benefits built up prior to 1 April 2015, are not restricted to benefits built up prior to this date.</p>
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Clarification of the partner definition

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 20(c)	<p>LGPS Regulations 2013:</p> <ul style="list-style-type: none"> Amends Sch 1 	1 April 2014	To make clear that a partner can be the partner of an active, deferred, deferred pensioner and pensioner member.	<p>Technical amendment to deliver policy intent</p> <p>Prior to this amendment, the definition of partner in Schedule 1 was specific to the partner of an active member only.</p> <p>Administering authorities should have been applying the</p>

				regulations in their intended format in accordance with the content of the survivor benefit guide .
Clarification of the revaluation adjustment definition				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 20(e)	LGPS Regulations 2013: <ul style="list-style-type: none"> Amend Sch 1 	1 April 2014	To make clear that where the LGPS receives a club transfer from a scheme that participates in the inner club scheme, the revaluation adjustment applied each 1 April to the resultant earned pension credited by the transfer (adjusted to take account of differences in scheme design), is that which would have applied in the sending scheme club scheme.	Technical amendment to deliver policy intent Prior to this amendment, the definition of revaluation adjustment did not include this provision. Administering authorities should have been applying the regulations in their intended format by virtue of paragraph 1.3a extant club memorandum and the list of participating club schemes .
Clarification of the statutory pay definition				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 20(f)	LGPS Regulations 2013: <ul style="list-style-type: none"> Amends Sch 1 	1 April 2014	To make clear that statutory pay includes statutory sick pay.	Technical amendment to deliver policy intent Prior to the amendment, statutory sick pay was inadvertently not included in the definition of statutory pay.

				Scheme employers should have been applying the regulations in their intended format, as per sections 4.1 and 4.2 of the Payroll Guide to the 2014 Scheme .
Connected scheme employers reference corrected				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 21(a) and 22	LGPS Regulations 2013: <ul style="list-style-type: none"> Amends para 5, Part 2 of Sch 2 Amends table in Part 2 of Sch 3 	1 April 2014	<p>To correct paragraph 5 of Part 2 of Schedule 2 to reference a body rather than a local authority when referring to an entity connected with scheme employers listed in paragraphs 1 to 5 of Part 1 (as they are not all local authorities).</p> <p>A corresponding amendment is also made to the table in Part 2 of Sch 3.</p>	<p>Technical amendment to deliver policy intent</p> <p>Prior to the amendments, the regulations incorrectly referred to an entity connect to a scheme employer in paragraphs 1 to 5 of Schedule 1 as being connected to a local authority, when in fact scheme employers are not always local authorities.</p> <p>Administering authorities should have been applying the regulations in their intended format.</p>
Election for early payment of deferred benefits at age 55 for leavers before 1 April 1998				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change

<p>Regulation 24(a) and 30(d)</p>	<p>LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014:</p> <ul style="list-style-type: none"> • New reg 3(5A)(a) 	<p>14 May 2018</p>	<p>1995 Regulations</p> <p>The changes provide that where a member left active membership of the scheme prior to 1 April 1998, they may voluntarily elect for early payment of their deferred benefits prior to their normal retirement date (NRD) at:</p> <ul style="list-style-type: none"> • age 55 providing they have ceased to be employed in local government employment, or • at such a later date upon ceasing to be employed in local government employment. <p>The deferred benefits will be reduced for early payment. The reduction will be based on the period from the date on which the benefits became payable, to the member's NRD under the 1995 Regulations (note: the 85-year rule is not a feature of the 1995 Regulations).</p> <p>NRD under the 1995 Regulations is defined as the earlier of:</p> <ul style="list-style-type: none"> • age 60 if, by that age, the member would have had 25 or more years membership of the scheme if they had remained in the scheme until then, or • the date the member would have achieved 25 years membership, if that date would fall after age 60 and before age 65, or 	<p>New policy</p> <p>This change will align the entitlement to early payment of deferred benefits for a member who left the scheme prior to 1 April 1998 with those of deferred members who left the scheme on or after 1 April 2014.</p> <p>However, deferred members who left the scheme on or after 1 April 2014 (and who ceased the employment in which their benefits are derived) are able to elect for payment of their deferred benefits from <u>any</u> date on or after age 55 (but they must be paid by age 75).</p> <p>This flexibility is not available to deferred members who left the scheme prior to 1 April 1998. Prior to the change these members had the option to either take early payment at age 60 (if they had an NRD of above 60) or to take their benefits at NRD. The change means that an election for early payment prior to NRD can now <u>only</u> be made <u>at</u> age 55 (or such a later date when the member ceases to be employed in local government employment) i.e. the option to take early payment at</p>
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			<ul style="list-style-type: none"> • age 65 if, by that age, the member would not have had 25 years membership of the scheme if they had remained in the scheme until then. <p>Existing provisions for payment of a deferred benefit under the 1995 regulations remain. A deferred member:</p> <ul style="list-style-type: none"> • <u>must</u> be paid their unreduced deferred benefits from their NRD, • may be paid their unreduced deferred benefits at any age prior to NRD, on health grounds (subject to qualification), • may be paid their unreduced deferred benefit from any date on or after age 50 and prior to NRD, on compassionate grounds (subject to the discretion of the scheme employer). Note: benefits paid before age 55 would be unauthorised under the Finance Act 2004. 	<p>age 60 for members with an NRD of above age 60 is removed.</p> <p>This creates a transitional issue for those deferred members that have already attained age 55 on 14 May 2018:</p> <ul style="list-style-type: none"> • a member over the age of 55 on 14 May 2018 with a NRD of later than 60 has had the option for early payment taken away from them (as the only option for early payment is now 55 and their 55th birthday has been and gone). We think that this will have a limited impact as it will only affect those members who joined the LGPS after 1 April 1993 and who left the scheme prior to 1 April 1998 with an entitlement to a deferred benefit. This is because members who joined prior to that date will have an NRD of age 60. • a member who is over age 55 on 14 May 2018 with an NRD of 60 cannot take advantage of the new early payment option from age 55. Whilst this member would not previously have had an option for early
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				<p>payment because their NRD is age 60, they are not being afforded the same early payment options that are now available to younger members e.g. a member who is age 58 on 14 May 2018 may only take payment of their benefits at NRD (age 60). However, a member who reaches age 55 on or after 14 May 2018, can now elect for early payment at age 55 or wait and take payment from their NRD.</p> <p>We have raised the above points with MHCLG and are awaiting their response.</p> <p><u>Update: MHCLG confirmed the following on 28 June 2018:</u></p> <p><u>“As stated in the 2016 Consultation Document, our policy intention has been and remains to remove the requirement for persons aged between age 55 and 60 to obtain their employer’s consent before drawing their benefits early. This intention was restated in the Government response published earlier this year. There we said that we proposed to remove the need for an employer to give consent when a member aged between 55 and</u></p>
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				<p><u>59 chooses early payment of benefits to members who left the LGPS with deferred benefits prior to 1 April 2008.</u></p> <p><u>Although it does not appear to have had this effect, our intention was that Regulation 24 of the 2018 Amendment Regulation should modify the LGPS Regulations 1995 (as preserved) to provide that this option is extended to members from the age of 55 who left the LGPS with a deferred benefit prior to April 2008.”</u></p> <p><u>The above statement cannot address any of the other nuances for payment prescribed within the LGPS Regulations 1995 (such as the requirement to have left all local government service before payment may be approved, payment must be made by the NRD of the 1995 Scheme and not age 75 as with the later schemes) accordingly these areas remain extant (these will be addressed in the consultation).</u></p> <p><u>It will be for administering authorities to determine, based on the statement of intent below, as</u></p>
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				<p>to whether or not they make <u>payment of benefits to a member that is not prescribed within the extant legislation.</u></p> <p><u>Update - Requisite benefits:</u></p> <p><u>A member's benefits may not be actuarially reduced below the level of their requisite benefits.</u> <u>Requisite benefits are based on the benefits built up from:</u></p> <ul style="list-style-type: none">• <u>6 April 1978 – 30 April 1995 inclusive for a woman, and</u>• <u>17 May 1990 – 30 April 1995 inclusive for a man</u> <p><u>Administering authorities may see a slight increase in the numbers of benefits paid out from age 55, that are increased to reflect the member's requisite benefits (i.e. to above the level the benefits have been reduced for early payment).</u> <u>In such an instance, there will be no strain cost to the former employer for early payment, because this is the guaranteed minimum that the scheme must pay.</u></p> <p><u>Update – GMP:</u></p>
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				<p><u>A question has arisen as to whether benefits paid prior to GMP age, can be reduced to below the level of the GMP as a result of 12:1 commutation or similar earlier provisions to convert pension to lump sum?</u></p> <p><u>There is nothing explicit within the LGPS regulations covering this question. However, administering authorities may wish to rely on the provisions of regulations:</u></p> <ul style="list-style-type: none"><u>• D17 of the LGPS Regulations 1995</u><u>• 36 of the LGPS Regulations 1997</u><u>• 50A of the LGPS (Administration) Regulations 2008</u><u>• 51 of the LGPS Regulations 2013</u> <p><u>All of which state that the member's benefits from pensionable age (i.e. GMP age) must not be less than the GMP in accordance with section 14 of the PSA 1993. Therefore, a pension cannot be voluntarily reduced to below the level of the GMP at a date earlier than the pensionable age (i.e. GMP age) of the GMP.</u></p> <p>Administering authorities will need to change their communications,</p>
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				<p>processes and pensions administration system to account for these changes. This will be especially important for those deferred members who reach age 55 on or shortly after 14 May 2018, as the new provisions will apply immediately.</p> <p>The Secretary of State guidance (Early payment of pension – 18 April 2016) appears to already cater for these amendments as the guidance is written generically to account for reductions to be made from the date of payment to the earliest date at which unreduced benefits may be taken (i.e. NRD).</p>
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Election for early payment of deferred benefits from age 55 for leavers between 1 April 1998 and 31 March 2008

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 24(a), 30(e) and 30(f)	<p>LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014:</p> <ul style="list-style-type: none"> • New reg 3(5A)(b) • New para1(1)(e) of Sch 2 	14 May 2018	<p>1997 Regulations</p> <p>Deferred / Deferred councillor member</p> <p>The changes provide that a member who left active membership of the scheme between 1 April 1998 and 31 March 2008 (and a councillor member who left active membership at any time because councillor's pension rights are</p>	<p>New policy</p> <p>These changes are introduced, to align:</p> <ul style="list-style-type: none"> • the entitlement to early payment of deferred benefits for a member/councillor who left the scheme between 1 April 1998 and 31 March 2008 with those of deferred

	<ul style="list-style-type: none"> • New para 1(1)(f) of Sch 2 • Amends para 1(2) of Sch 2 • Amends para 2(3) of Sch 2 		<p>built up solely under the 1997 Scheme Regulations) may elect for payment of their deferred benefits at any time between their 55th birthday and the eve of their 75th birthday (provided they have ceased the employment in which their benefits are derived).</p> <p>Where the member elects for voluntary early retirement before age 60, the deferred benefits will be reduced for early payment. The reduction will be based on the period from the date on which the benefits became payable, to the later of:</p> <ul style="list-style-type: none"> • age 60, or • the date by which the member satisfies the 85-year rule, or • age 65, if the member would not satisfy the 85-year rule by that date. <p>The scheme employer may, in respect of deferred members who choose to voluntarily draw their benefits on or after age 55 and prior to age 60, choose to:</p> <ul style="list-style-type: none"> • ‘switch on’ the 85-year rule in full • waive on the grounds of compassion any reduction for early payment. <p>Where there is a strain cost payable to the fund as result of the employer exercising either of the above options, the administering authority may require</p>	<p>members who leave the scheme on or after 1 April 2014.</p> <ul style="list-style-type: none"> • the entitlement to early payment of pension credit benefits awarded under the 1997 Regulations (i.e. where the debited member left the LGPS prior to 1 April 2014 or the transfer date is prior to 1 April 2014) with the entitlement to early payment of pension credit benefits awarded under the 2014 scheme (i.e. where the debited member has been a member of the 2014 scheme and the transfer date is on or after 1 April 2014). <p>Although paragraph 1(2) of schedule 2 has been amended to provide that a scheme employer may ‘switch on’ the 85 year rule, this is not reflected in paragraph 1(3)(b). We will raise this discrepancy with MHCLG.</p> <p>Although not explicitly stated scheme employers (and administering authorities where the scheme employer no longer exists), should revise their discretionary policy to account for</p>
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		<p>the scheme employer to make an additional payment.</p> <p>Existing provisions for payment of a deferred benefit under the 1997 regulations remain. A deferred member who has ceased the employment in which their benefits are derived, may:</p> <ul style="list-style-type: none"> • voluntarily elect for payment of their unreduced deferred benefits at NRD, • voluntarily elect to defer payment up to the eve of their 75th birthday and receive actuarially increased benefits • be paid their unreduced deferred benefits at any age prior to NRD, on health grounds (subject to qualification), • voluntarily elect to be paid deferred benefits from any date on or after age 50 and prior to age 55 (subject to the discretion of the scheme employer). Where this is the case, the deferred benefit will be reduced for early payment in accordance with guidance issued by the Secretary of State, unless the scheme employer chooses to waive that reduction on the grounds of compassion. Note that benefits paid before age 55 would be unauthorised under the Finance Act 2004. <p>NRD under the 1997 Regulations is age 65, with the exception of a member who</p>	<p>this change. (We will raise the fact the requirement is not legislated for with MHCLG)</p> <p>Administering authorities will need to change their communications, processes and pensions administration system to account for these changes. This will be especially important for those deferred members and pension credit members who reach age 55 on or shortly after 14 May 2018, as the new provisions will apply immediately.</p> <p>The Secretary of State guidance (Early payment of pension – 18 April 2016) appears to already cater for these amendments as the guidance is written generically to account for reductions to be made from the date of payment to the earliest date at which unreduced benefits may be taken and includes reference to the 85-year rule protections.</p> <p>The Secretary of State guidance - Application of a pension credit to the former spouse or civil partner of a pre-2014 leaver will need amending as this states that</p>
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			<p>left the scheme prior to 1 October 2006 and who was an active member on 31 March 1998 – these members have a NRD equal to the NRD under the 1995 Regulations.</p> <p>Pension credit member A pension credit member may voluntarily elect for early payment of their pension credit from <u>any</u> date on or after age 55 and prior to normal benefit age.</p> <p>Where the pension credit is voluntarily paid on or after age 55 and prior to normal benefit age, the pension credit will be reduced for early payment. The reduction for early payment will be based on the period from the date on which the benefits became payable, to normal benefit age.</p> <p>The normal benefit age of a member who was awarded a pension credit under the 1997 Regulations is age 65 (Note: this will include pension credits where the debited member left the LGPS prior to 1 April 2014 or the transfer date is prior to 1 April 2014awarded up to and including 31 March 2014; the 85-year rule does not apply to pension credit members).</p>	<p>pension credit benefits can be taken on an actuarially reduced basis at or after age 60.</p>
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Election for early payment of deferred benefits from age 55 for leavers between 1 April 2008 and 31 March 2014

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 24(a), 30(a), 30(c), 30(e) and 30(f)	<p>LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014:</p> <ul style="list-style-type: none"> • New reg 3(5A)(c) • Amends para 1(1)(a) of Sch 2 • New para 1(1)(aa) of Sch 2 • Amends para 1(1)(c) of Sch 2 • Amends para 1(2) of Sch 2 • Amends para 2(3) of Sch 2 	14 May 2018	<p>2007 Regulations</p> <p>Deferred member / Deferred pensioner member</p> <p>The changes provide that the members below may elect for payment of their benefits from any date on or after their 55th birthday (but they must be paid by age 75):</p> <ul style="list-style-type: none"> • a member who left active membership of the scheme between 1 April 2008 and 31 March 2014 (and who has ceased the employment in which their benefits are derived), or • a member who was awarded a Tier 3 ill health pension under the 2007 Regulations and who subsequently became a deferred pensioner member <p>Where the benefits are voluntarily paid on or after age 55 and prior to age 60, they will be reduced for early payment. The reduction will be based on the period from the date on which the benefits became payable, to the later of:</p> <ul style="list-style-type: none"> • age 60, or • the date by which the member satisfies the 85-year rule, or 	<p>New policy</p> <p>This change is introduced to align the entitlement to early payment of:</p> <ul style="list-style-type: none"> • deferred benefits for a member who left the scheme between 1 April 2008 and 31 March 2014, and • the benefits of a deferred pensioner member awarded a Tier 3 ill health pension under the 2007 regulations, <p>with those of deferred and deferred pensioner members, who left the scheme on or after 1 April 2014.</p> <p>Although not explicitly stated scheme employers (and administering authorities where the scheme employer no longer exists), should revise their discretionary policy to account for this change. (We have raised this with MHCLG and await a response.)</p>

			<ul style="list-style-type: none"> • age 65, if the member would not satisfy the 85-year rule by that date. <p>The scheme employer may, in respect of members who choose to voluntarily draw their benefits on or after age 55 and prior to age 60, choose to:</p> <ul style="list-style-type: none"> • ‘switch on’ the 85-year rule in full. • waive on the grounds of compassion any reduction for early payment. <p>Where there is a strain cost payable to the fund as result of the employer exercising either of the above options, the administering authority may require the scheme employer to make an additional payment.</p> <p>Existing provisions for payment of a deferred benefit/deferred pensioner benefit under the 2007 regulations remain. A deferred member (who has ceased the employment in which their benefits are derived) or a deferred pensioner member may:</p> <ul style="list-style-type: none"> • voluntarily elect for payment of their unreduced deferred/deferred pensioner benefits at NRD, • voluntarily elect to defer payment up to their 75th birthday and receive actuarially increased benefits • be paid their unreduced deferred/deferred pensioner benefits 	<p>Administering authorities will need to change their communications, processes and pensions administration systems to account for these changes. This will be especially important for those deferred members and deferred pensioner members who reach age 55 on or shortly after 14 May 2018, as the new provisions will apply immediately.</p> <p>The Secretary of State guidance (<u>Early payment of pension – 18 April 2016</u>) appears to already cater for these amendments as the guidance is written generically to account for reductions to be made from the date of payment to the earliest date at which unreduced benefits may be taken and includes reference to the 85-year rule protections.</p> <p>Underpin impact Before the change, the underpin amount for a deferred member who left the 2014 scheme between age 55 and 60 would (in most cases) be nil. This is because when calculating the underpin amount it is the amount of benefits the member would have had an</p>
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			<p>at any age prior to NRD, on health grounds (subject to qualification),</p> <p>NRD under the 2007 Regulations is age 65.</p>	<p>entitlement to take immediate payment of under the 2008 scheme that is compared with the 2014 benefits.</p> <p>From 14 May 2018, a deferred member can voluntarily elect for payment of their benefits from age of 55, so it no longer follows that the underpin amount will be nil. However, because the change is not retrospective, the impact is academic. For the underpin to apply a member must have been within 10 years of their NPA under 2008 scheme on 1 April 2012, this means these members will now be at least age 61 and already able to take immediate payment of benefits so the change will have no impact for the underpin. The underpin date is the earlier of:</p> <ul style="list-style-type: none"> • the date the member attains their NRA under the 2008 scheme (in most cases 65), or • the date the member ceases to be an active member of the 2014 scheme with an immediate entitlement to pension.
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				To confirm, it is our understanding that there is no change for deferred members who left before 14 May 2018 who were between age 55 and 60 at leaving and who met the criteria for the underpin, but the underpin amount was nil because they were not entitled to immediate payment under the 2008 scheme at the underpin date. The underpin amount for these members will continue to be nil.
Aggregation				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 24(b)	LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014: <ul style="list-style-type: none"> • New reg 3(6A) 	1 April 2014	<p>To make clear that where the member re-joins the scheme:</p> <ul style="list-style-type: none"> • on or after 1 April 2014 (without having had a continuous break in active membership of a public service pension scheme of more than 5 years), and • aggregates deferred benefits to the active membership of the 2014 scheme - where the deferred benefits are derived from membership where the member left active membership either prior to 1 October 2006 (where 	<p>Technical amendment to deliver policy intent</p> <p>Prior to the amendments, the regulations inadvertently protected the NPA of the aggregated benefits to that of the 1995 regulations. This meant that the NPA for the aggregated benefits was the later of (1) age 60 if, by that age, the member would have had 25 or more years membership of the scheme if they had remained in the scheme until then, or (2) the date the member would have achieved 25 years</p>

			<p>the member was also an active member on 31 March 1998) or prior to 1 April 1998</p> <p>then the NPA of the aggregated benefits is age 65.</p>	<p>membership, if that date would fall after age 60 and before age 65, or (3) age 65 if, by that age, the member would not have had 25 years membership of the scheme if they had remained in the scheme until then).</p> <p>Administering authorities should have been applying the regulations in line with policy intent which replicates the position had the member re-joined the scheme prior to 1 April 2014 and aggregated membership.</p>
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Aggregation

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 27	<p>LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014:</p> <ul style="list-style-type: none"> Amends reg 10(6) New regulation 10(6A) 	14 May 2018	<p>The change imposes a time limit for members to elect to aggregate a deferred benefit where:</p> <ul style="list-style-type: none"> the member has a deferred benefit derived solely from membership built up before 1 April 2014 and re-joins the scheme on or after 14 May 2018, and 	<p>Technical amendment to deliver policy intent</p> <p>This amendment closes the door on an unintended provision for certain members who have an open ended right to elect for the aggregation of a deferred benefit. Members who joined the 2014 scheme before 14 May 2018 can elect to aggregate benefits that were solely built up prior to 1 April under regulation 10 (6) (i.e. where</p>

			<ul style="list-style-type: none"> • a transfer value of the deferred benefits would buy earned pension under regulation 10(6)¹ 	<p>the transfer buys earned pension) at any time prior to leaving active membership of the scheme.</p> <p>Members who join the 2014 scheme on or after 14 May 2018 must make such an election within 12 months of re-joining the scheme (or such longer time as the scheme employer allows)</p> <p>Note: members who re-joined the scheme on or after 1 April 2014 and prior to 14 May 2018, may still take advantage of the open ended clause (i.e. this change does not affect them).</p> <p>Administering authorities may need to change their communications and processes to account for these changes.</p> <p>Scheme employers may also need to amend their communications and revise their discretion policy document to confirm if they will allow an extension of the 12-month time limit in such</p>
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¹ a transfer value would buy earned pension under regulation 10(6) where the member has a continuous break in active membership of a public service pension scheme of more than five years or, where the member does not have such a break but does not elect to be treated as if they had become an active member of the 2014 scheme by virtue of regulation 5(1).

				circumstances (if their policy document currently treats this group of members differently.)
Expansion of the underpin				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 26(b)	LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014: <ul style="list-style-type: none"> New reg 9(1A) 	1 April 2014	<p>This change provides that:</p> <ul style="list-style-type: none"> where a transfer value is received into the 2014 scheme from a different public service pension scheme, and all or part of the transfer purchases final salary benefits in the LGPS, and the member has not had a continuous break in active membership of a public service pension scheme of more than five years since ceasing active membership in the scheme from which the transfer payment is received - <p>the statutory underpin will apply to the person, if applicable, and the membership to which the transfer relates will be treated as if it were membership of the 2008 scheme.</p> <p>Where such a transfer is received the underpin will apply where the member:</p>	<p>New policy</p> <p>This amendment intends to align the LGPS with other public service schemes in their approach to transitional protection under section 18(5) of the Public Service Pensions Act (PSPA) 2013.</p> <p>The transitional protection being introduced is a somewhat simplified version to that which is already present in other public service pension schemes.</p> <p>Administering authorities should note:</p> <ul style="list-style-type: none"> that PSPS is defined in section 1 of the PSA 1993, and section 192(2) confirms that PSPS in Northern Ireland (NI) are included. We are seeking confirmation from MHCLG as to whether or not, given that NI PSPS do not fall under the

			<p>(a) was an active member of the other public service pension scheme on 31 March 2012²;</p> <p>(b) was, on 1 April 2012, 10 years or less from the normal retirement age applicable in the 2008 scheme (65);</p> <p>(c) was an active member before the underpin date;</p> <p>(d) receives payment of benefits under the 2014 scheme on or after the underpin date;</p> <p>(e) does not have a disqualifying break in service; and</p> <p>(f) has not, prior to the underpin date, drawn benefits under the 2013 regulations in relation to an employment.</p> <p>A disqualifying break in service for the purpose of paragraph (e) is a continuous break after 31 March 2012 or more than 5 years in active membership in of a public service pension scheme.</p>	<p>PSPA 2013, it is intended that the underpin should apply.</p> <p>Administering authorities will need to change their communications, processes and pensions systems to account for these changes. In addition, they will also need to review past cases to determine if the underpin should have applied to benefits that are already in payment.</p>
Correction to include additional contributions paid before 1 April 2014 in a refund paid under the 2013 Regulations				

2 Where a member was not an active member of the transferring PSPS on 31/3/2012 but was an active member of another PSPS on 31/3/2012 and that membership has been transferred to the transferring PSPS this condition will still be met

SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 28	LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014: <ul style="list-style-type: none"> Reg 14(2) 	1 April 2014	To make clear that a member entitled to a refund under the 2013 Regulations, who has paid contributions in respect of pre 2014 aggregated membership (including additional contributions) is also entitled to a refund of the additional contributions paid before 1 April 2014.	<p>Technical amendment to deliver policy intent</p> <p>Prior to this amendment, the regulations could have been interpreted to mean that the additional contributions (including AVCs) were not refunded at the same time as the main scheme contributions. This could have resulted in orphan AVCs.</p> <p>Administering authorities should have been applying the policy intention, as per section 8 of the now withdrawn LGPS 2014 course notes for practitioners.</p>
Alignment of pre and post April 2014 AVC contracts				
SI 2018/493	Regulations amended/inserted or deleted	Effective date of amendment	Description of change	Impact of change
Regulation 29	LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014: <ul style="list-style-type: none"> Delete reg 15(1)(b) 	14 May 2018	<p>The changes</p> <p>From 14 May 2018, the rules that apply to post 2014 AVC contracts will apply to pre 2014 AVC contracts, with some exceptions, as detailed below: This change will affect:</p>	<p>New policy</p> <p>These amendments align the provisions of AVC plans entered into before 1 April 2014 with those entered into on or after that date, with certain exceptions noted in the previous column.</p>

	<ul style="list-style-type: none"> • Amends reg 15(1)(d) • New reg 15(2A) • Deletes reg 15(4) • Amends reg 15(5) 		<ul style="list-style-type: none"> • active members on 14 May 2018 who have an AVC contract that started before 1 April 2014, and • members who have an AVC contract that started before 1 April 2014 who left active membership of the scheme on or after 1 April 2014 and take payment of their AVC plan on or after 14 May 2018. <p>This means that, in respect of pre 2014 AVC contracts, from 14 May 2018 the following changes are applicable:</p> <p>Contributions The maximum contribution limit will increase from 50% of pensionable pay (based on the 2008 scheme definition) up to 100% of pensionable pay (based on the 2014 scheme definition).</p> <p>Option to defer payment Where a member takes payment of their main scheme benefits, they are not able to defer payment of their AVCs (except for some flexible retirees). The facility to defer payment of what was a 'pre 2014' AVC has been removed.</p> <p>Purchase scheme pension Deferred members can use their AVCs to buy additional pension when they take their main scheme benefits.</p>	<p>Accordingly, the AVC provisions extant prior to 1 April 2014, remain in place for those members who left scheme prior to that date. In addition, these amendments do not apply to Councillor members, as Councillor members who pay AVCs are doing so under the 1997 Regulations and continue to be restricted to a maximum contribution of 50% of pensionable pay.</p> <p>Scheme employers will need to ensure that from 14 May 2018 AVCs are deducted from pensionable pay as defined under the LGPS 2013 Regulations.</p> <p>Members paying AVCs where the contract started before 1 April 2014 should be made aware that AVCs will now be deducted from additional pensionable elements (e.g. overtime).</p> <p>The ambiguity surrounding the payment of a 'pre 2014' AVC plan, in the event of a member's death on or after 14 May 2018, has been removed and the monies may now be paid in accordance with</p>
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			<p>Prior to these amendments, a pre 2014 AVC plan could only be used to purchase scheme pension where the member left active membership of the scheme and was entitled to the immediate payment of their main scheme benefits.</p> <p>Death benefits Where a member dies before the AVC plan has come into payment, an administering authority can now use their discretion to pay the death grant and any life assurance sum to the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.</p> <p>Aggregation A member with a deferred refund containing pre 1 April 14 membership only (D1 member), who joins the scheme on or after 14 May 2018 must aggregate their 'pre-2014' AVC plan at the same time as their main scheme benefits. Prior to the change, a member had to positively elect to aggregate their AVC plan or could leave it as an orphan AVC.</p> <p>A member:</p> <ul style="list-style-type: none"> with a deferred benefit containing pre 1 April 14 membership only (D2 member), who joins the scheme on 	<p>regulation 17(12) of the 2013 Regulations.</p> <p>Administering authorities will need to change their communications, processes and pensions systems to account for these changes.</p> <p><u>Update:</u> <u>The SoS guidance will need to be updated to account for this alignment.</u></p> <p><u>In the meantime, it is our understanding that the guidance for contracts entered into on or after 1 April 2014 in relation to 'AVCs – purchase of additional pension' should be used for members affected by these regulations i.e. for the affected members detailed in the previous column who elect to use their AVC plan to buy a top-up pension in the LGPS.</u></p> <p><u>Scheme employers will need to amend their discretionary policies to remove the distinction between pre and post April 2014 SCAVC arrangements.</u></p> <p><u>Administering authorities will need to amend their discretionary</u></p>
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			<p>or after 14 May 2018 with a break of less than 5 years active membership in a public service pension scheme, and</p> <ul style="list-style-type: none"> • who does not elect to be treated as if they are a member on 31 March 2014 and 1 April 2014 within 12 months of re-joining <p>must aggregate their 'pre2014' AVC plan at the same time as their main scheme benefits. Prior to the change, the member had to positively elect to aggregate their AVC plan or could leave as an orphan AVC.</p> <p>A member with:</p> <ul style="list-style-type: none"> • a deferred benefit containing pre 1 April 14 membership only (D3 member), who joins the scheme on or after 14 May 2018 with a break of more than 5 years active membership in a public service pension scheme <p>must aggregate their 'pre2014' AVC plan at the same time as their main scheme benefits. Prior to the change, the member had to positively elect to aggregate their AVC plan or could leave as an orphan AVC.</p> <p>Provisions in respect of pre 2014 AVCs that remain: The following provisions remain for an active member of the 2014 scheme</p>	<p>policies, to remove the facility to determine whether to charge a member for provision of an estimate of additional pension that would be provided by the Scheme in return for transfer of in house AVC/SCAVC funds (where AVC/SCAVC arrangement was entered into before 1/4/14).</p>
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			<p>who, on or after 14 May 2018, is paying AVCs in respect of a contract that was entered into prior to 1 April 2014:</p> <ul style="list-style-type: none">a) They retain a normal pension age in respect of the AVC of age 65.b) A member who started their AVC contract prior to 13 November 2001 retains the right to buy scheme membership in certain circumstances (i.e. regulation 66(8) of the 1997 Regulations is saved).	
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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 that agree to have their details published.

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