

## **Amendments to the Local Government Pension Scheme (LGPS)**

Information for administering authorities to provide to scheme members regarding recent amendments to the LGPS

### **Introduction**

LGPS administering authorities will be aware of the recent changes to the LGPS following the introduction of the LGPS (Miscellaneous Amendment) Regulations 2018 which were made on 18 December 2018 and came into force on 10 January 2019. The regulations amend the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

This short document is designed to assist administering authorities when communicating the material 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.

The suggested areas of communication do not include all the amendments made by the amendment regulations; [bulletin 180](#) should be consulted alongside [SI 2018/1366](#) for details of all the amendments made by that statutory instrument.

### **Disclosure requirements**

The Disclosure Regulations 2013 require that pension schemes inform all members and beneficiaries of the scheme of any change to the scheme that results in a material change to the basic scheme information, as listed in Part 1 of Schedule 2 of those regulations. The basic scheme information is generally the information that would be included in the brief scheme guide.

Administering authorities should note that, in accordance with regulation 8(5)(a) of the Disclosure Regulations 2013, no information is required to be given unless it is relevant to the person's rights or prospective rights under the scheme. This leaflet therefore suggests which areas of communication are relevant to the different categories of member.

Communication of the changes should take place as soon as possible, and in any event, within three months of the date of change (ie by 9 April 2019).

Information on the methods that can be used to provide information to members and beneficiaries, in accordance with the Disclosure Regulations 2013, is set out in [appendix 1](#).

## **Payment of deferred benefits from age 55 for leavers before 1 April 1998**

Administering authorities will be aware that the changes made by LGPS (Amendment) Regulations 2018 [[SI2018/493](#)], which took effect from 14 May 2018, did not deliver policy intent for deferred members who left before 1 April 1998. The policy intent was to remove the need for a former employer to give consent, when a deferred member chooses to take early payment of their deferred benefit from age 55. For more information see [bulletin 171](#).

The LGPS (Miscellaneous Amendment) Regulations 2018 correct the previous error and deliver policy intent – the change is backdated to 17 April 2018.

The communications that need to take place now depend on what decision your administering authority took last May – ie whether you chose to:

1. apply policy intent and allow all members from age 55 to take payment of their deferred benefit without the need for their former employer's consent, or
2. apply the regulations as enacted and only allow deferred members who left before 1 April 1998 to take early payment at age 55 or NRD.

If you chose option one you only need to inform deferred members who left before 1 April 1998 that:

- the requirement to have left all local government employment has been removed
- an election for early payment must be made to the administering authority (rather than the employer).

## **Sample text**

### ***[Deferred member newsletter text – leavers before 1 April 1998]***

#### **Changes to when you can take your deferred benefit**

##### ***Option 1***

#### **Early payment of deferred benefits for leavers before 1 April 1998**

Last year we wrote to you to inform you of a change to scheme rules if you left with a deferred benefit before 1 April 1998. We informed you that the scheme rules had been changed to allow you to choose to take early payment of your deferred benefits from age 55 (rather than 60). The change to the scheme rules means that you no longer need the consent of your former employer to take your benefits between age 55 and your Normal Pension Age (NPA). Your NPA will be between age 60 and 65 depending on when you joined the scheme – you can find this information on your deferred benefit statement.

We are writing to you again to let you know that a further change to the scheme rules has been made which means that you no longer have to leave all local government employment to take payment of your deferred benefit. This means that if you are working in another local government employment (ie a different employment to the one you were in when you built up your deferred benefit) you can now choose to take payment of your deferred benefit and continue in your local government employment. This change is backdated to 17 April 2018.

An application for early payment of your deferred benefit should be made to **xxxxxx**.

## **Option 2**

### **Early payment of deferred benefits for leavers before 1 April 1998**

Last year we wrote to you to inform you of a change to scheme rules if you left with a deferred benefit before 1 April 1998. We informed you that the scheme rules had been changed to allow you take your benefit at age 55 (rather than 60), or the date your deferred benefit will be payable without a reduction for early payment – this is called your Normal Pension Age (NPA). Your NPA will be between age 60 and 65 depending on when you joined the scheme – you can find this information on your deferred benefit statement.

We are writing to you again to let you know that a further change to the scheme rules has been made which now allows you to take your benefit from age 55 (rather than only at age 55 or NPA) – your former employer does not need to provide consent for you take your benefits between the age of 55 and your NPA. You must take payment of your deferred benefit at NPA (if you have not taken payment before).

In addition, you no longer have to leave all local government employment to take payment of your deferred benefit. This means that if you are working in another local government employment (ie a different employment to the one you were in when you built up your deferred benefit) you can now choose to take payment of your deferred benefit and continue in your local government employment.

The above changes are backdated to 17 April 2018.

An application for early payment of your deferred benefit should be made to **xxxxxx**.

## **Option 1 and 2**

### **Reductions to your benefits for early payment**

If you choose to take your deferred benefits earlier than your Normal Pension Age (NPA) they will normally be reduced to take account of the fact that your pension will be paid for longer. How much your deferred benefits are reduced by will depend on how early you take them. The reduction is based on the length of time (in years and days) between the date you take them and the date your deferred benefit is payable without a reduction for early payment. If you are unsure when your NPA is you should check your deferred benefit statement.

The early retirement reduction factors are set by the government and can vary from time to time. The current factors can be found on the national LGPS member website - [www.lgpsmember.org/more/reductions.php](http://www.lgpsmember.org/more/reductions.php)

More information about taking your deferred is available on the national LGPS website - [www.lgpsmember.org/arl/already-left-when.php](http://www.lgpsmember.org/arl/already-left-when.php)

**[Active / deferred / pensioner member newsletter text]**

## **Changes to survivor benefits for same sex spouses and civil partners**

A change to the scheme rules has been made to provide that survivor benefits payable to a same sex spouse or a civil partner are equal those paid to the widow of a male member.

### **Why has the change been made?**

The change has been made as a result of a Supreme Court judgment (Walker v Innopsec) which found that Mr Walker's male spouse was entitled to the same benefits that would have been paid if Mr Walker had left a widow in an opposite sex marriage.

### **Why does this apply to the LGPS?**

The government believes that the implication of this judgment for all public service pensions schemes, including the LGPS, is that surviving civil partners or surviving same sex spouses should be provided with benefits equal to those that would be left to the widow of a male member.

### **When does the change take effect from?**

The change is backdated to the date the civil partnerships and same sex marriages were introduced – this is 5 December 2005 for civil partnerships and 13 March 2014 for same sex marriages.

This means that where a member of the LGPS has died leaving a surviving civil partner or a same sex spouse, the survivor's pension in payment will need to be reviewed and any additional amounts paid, where applicable. We are in the process of reviewing the impact of this change and will be contacting affected civil partners and same sex spouses in due course.

The change will automatically be taken into account in survivor benefits paid to civil partners and same sex spouses in the future.

## Appendix 1

### Notes for LGPS administering authorities on giving information and documents<sup>1</sup>

Information can be given by:

- sending it the last known postal address
- sending it to the last known email address
- making it available on a website.

But, where the member or beneficiary requests that some or all of the information is not provided by email or on a website, the information must be provided in writing.

Information can only be given electronically where the LGPS administering authority is satisfied that the communications have been designed so that the person will be able to get access to the information and store or print it. You must take into account disabled persons.

Where a person was a member or beneficiary on 1 December 2010 and information was not given electronically before that date, information cannot be given electronically unless you have given the member or beneficiary written notice. The written notice must state that:

- you propose to provide information by means of electronic communication
- the member or beneficiary can opt out of receiving information electronically

The written notice must not be given electronically.

#### Providing information on a website

The first time a website is used to make information or a document available, the recipient must be given:

- a statement that the information or document is available on the website
- the website address
- details of where on the website the information may be read
- an explanation of how the recipient may read the information on the website.

Each subsequent time a website is used to make information or documents available a notification must be given to the recipient – the statement needs to state that information or a document is available on the website. Notifications cannot be given by making them available on the website.

However, you do not need to provide subsequent notifications where:

- you do not know the recipient's email address or do not have the facility to send information or documents to that address, and
- the member has not opted out of electronic communications, and
- you have given the recipient at least two documents either by hand or to their last known postal address and each of the documents asks for their email address

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<sup>1</sup> In accordance with The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [SI 2013/2734]

- (except where you don't have the facility for sending information to that address) and states that they can opt out of electronic communication, and
- you have issued a further document by hand or to their last known postal address asking for their email address (except where you don't have the facility for sending information to that address) and stating that they can opt out of electronic communications. The document must also state that no further notifications will be sent to the recipient and that further communication will be made available on the website.

**Disclaimer**

This leaflet has been prepared based on the LGPC Secretariat's understanding of the information presently available including the relevant legislation governing the Local Government Pension Scheme and associated overriding legislation. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the Local Government Association for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by reads relaying on information contained herein.