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pay, pensions and employment solutions

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 71 – June 2010

This month's Bulletin contains a number of general items of information.

Please contact Dave Friend with any comments you might have on the contents of this Bulletin or to suggest other items that you would wish to see included in future Bulletins.

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This month, Bits and Pieces includes articles on LGPC Circular 238 and the update of the Timeline Regulations

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Local Government Employers is the business name of Employers Organisation for Local Government, a company limited by guarantee, registered in England and Wales, number 3676611
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LGPS 2008 - Regulation 10 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended)

The interpretation of this regulation was discussed at the Technical Group meeting of 17 June 2010 as a number of administering authorities believe that the regulation applies where the member voluntarily chooses to move to an employment with the same employer on a lower full-time pay rate (i.e. to a post with a lower grade or less responsibility).

The Technical Group was informed that the underlying policy intention is that the regulation only applies where an employer's action has caused the member's pay to be reduced or restricted. The Secretariat has asked CLG to confirm the policy intention and will include an update in the next Bulletin.

The Technical Group agreed that regulation 10 will not apply if local government workers do not receive a pay award (which might be the case as a result of Government pay policy), unless the employee's contract of employment includes a clause which states that he or she will receive annual pay increases. It is possible that the Government could pass legislation with regard to the impact of any pay freeze on member's benefits. Given the overall tenor of the Emergency Budget, it was felt that it would be unlikely that the Government would pass such legislation.

LGPS 2008 – GAD guidance: Application of Pension Debits

CLG issued GAD guidance in respect of the application of Pension Debits with a covering letter on 1 June 2010.

At its meeting of 17 June 2010, the Technical Group were of the view that the guidance should not be applied retrospectively and, therefore, the effective date for the guidance is 1 June 2010. If the member's benefits (net of the pension debit) were brought into payment before 1 June 2010, then there is no need to recalculate the member's benefits. The benefits were brought into payment based on the guidance which was extant at that time.

If the member's benefits have not been brought into payment, then the new guidance should be applied to the calculation of the pension debit when the member elects to receive his or her benefits.

LGPS 2008 - CLG Response to LGPC's correspondence

On 4 June, CLG responded to four letters from the Secretariat had in respect of:

> an immediate vesting period of 3 months;
> salary sacrifice;
> the cost of flexible retirement; and
> The LGPS (Miscellaneous) Regulations 2009 [SI 2009/3150].

The LGPC had requested the return to an immediate vesting period of two years. CLG stated, in their letter (see the copy of the letter in the Appendix to this Bulletin) that the immediate vesting period of 3 months will remain until the Government's "future pension policies become clearer". [Note, the text of the letter said, "the two year vesting period remains" but that is understood to be a typographical error.]

The response to the LGPC's request for further consideration of salary sacrifices was of a similar nature. The key passage from the section on salary sacrifice states:

> *"Our judgement is that it is too early in the life of the new Government to be clear about what their views would be but we are very doubtful if there would be support for a potential loss of tax revenue."*

The LGPC had asked that consideration be given to making flexible retirement cost neutral for employers with respect to pensions and that members could agree to have their benefits actuarially reduced where they wish to retire voluntarily or bring their deferred benefits into payment before age 60. CLG indicated in their letter that GAD will be issuing guidance on flexible retirement shortly. As a consequence, in CLG's view, it would sensible to wait for the publication of this GAD guidance before considering any amendment to the regulations. CLG's view is that employers need to consider other factors in addition to the "pension-related" costs.

The LGPC identified a number of issues which resulted from the LGPS (Miscellaneous) Regulations 2009 [SI 2009/3150]. The response from CLG concentrated on the main points. CLG admitted that regulations 11 to 13 (conversion of periods credited under compensation regulations into membership) of SI 2009/3150 may not answer all the questions that administering authorities might have. The main purpose of those regulations, however, is to assist fund actuaries in moving from re-charge to pre-funding. As far as the regulations are concerned, the key issue is the "*value* of individual's benefits".

The LGPC identified a number of problems with new regulation 14A of the Benefit Regulations (Election to pay additional contributions: survivor benefits) :

- the regulations do not define pre 6 April 1988 membership even though members can elect to purchase pre 6 April 1988 membership. [Note, the Secretariat attempted to define 6 April membership in Bulletin 67];
- there is a deadline of 31 March 2011 for elections under regulation 14A(1) which makes no allowance for members who enter into a nominated co-habiting partnership after that date (or, indeed, after 31 March 2009, given that all the conditions required by the regulations to nominate a co-habiting partner must have been met for a period of two years);
- there are various problems with regulation 14A(6) . The main ones are there is no GAD guidance available to calculate the additional pension a member is entitled to under 14A(6) and it is not clear why the member should be granted additional pension under regulation 14A(6) in the first place.

CLG will consider amending the regulation so either there will a further opportunity for the member to elect to pay ASBCs or relate the deadline to the date on which the member enters into a nominated co-habiting partnership. CLG have "noted the problems inherent in 14A(6) and … may, possibly, revoke this part of the regulation".

As a result of the amendment to regulation 3(4) of the Transitional Provisions 2008, a post-retirement civil partner is placed in a better position than a post-retirement widow or widower as the surviving civil partner's pension is calculated on all of a scheme member's membership. CLG say that the intention behind the amendment was to place civil partners in the same position as widows and widowers and so will investigate the points raised by the LGPC's letter.

Regulation 29 of SI 2009/3150 introduced regulation 50A (Guaranteed minimum pensions) into the Administration Regulations 2008. CLG have accepted that the cross-reference to paragraph (5) in regulation 50A(2) is illogical and will investigate to correct this error. CLG do not agree with the Secretariat's assertion that the regulation 50A, read as a whole, permit members to defer their GMP

indefinitely and nor do they see the need to amend regulations 36 of the LGPS Regulations 1997 and regulation D17 of the LGPS Regulations 1995 so they are in line with regulation 50A of the Administration Regulations.

LGPS Scotland – The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010 [SSI 2010/233]

The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010 [SI 2010/233] were laid before the Scottish Parliament on 11 June 2010 and come into force on 5 July 2010. The SI revokes the previous Management and Investment of Funds Regulations i.e. SI 1998/2888 and all subsequent amendments.

The 2010 Investment Regulations require that from 1 April 2011, administering authorities must hold all monies for the purpose of the pension fund in a separate account with a deposit-taker. A deposit taker is defined as the Bank of England, the central bank of any other EEA state, the National Savings Bank, a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or an EEA firm which can accept deposits by virtue of paragraphs 5(b), 12 and 15 of Schedule 3 to the Financial Services and Markets Act 2000.

SPPA issued circular SPN/LG No.4/2010 to accompany the new investment regulations. Annex B to that circular highlights that administering authorities should refer to the guidance published by CIPFA on 11 December 2009 when showing in their Statement of Investment Principles the extent to which they have complied with guidance or, to the extent the authority does not so comply, the reasons for not complying. The CIPFA guidance is entitled "Investment Decision-Making and Disclosure in the Local Government Pension Scheme: A Guide to the Application of the Myners Principles". The new CIPFA guidance supersedes the previous CIPFA guidance on the application of the original Myners principles issued in 2002. The cost of the new guidance is £50.

Both circular SPN/LG No.4/2010 and Annex B are available on the Statutory Guidance and Circulars page of the Timeline Regulations website.

LGPS Scotland – The Local Government Pension Scheme Amendment (Scotland) Regulations 2010 [SSI 2010/234]

The Local Government Pension Scheme Amendment (Scotland) Regulations 2010 [SSI 2010/234] were laid before the Scottish Parliament on 11 June 2010 and come into force on 5 July 2010. The regulations:

- change the deadline, in Administration regulation 27(2), for publication of the first governance compliance statement from 1 April 2010 to 31 March 2011;
- introduce regulation 31A (pension fund annual report) into the Administration Regulations;
- insert a new sub-paragraph to Administration regulation 42(1) preventing a refund of contributions where a member ceases one concurrent employment and continues in the other concurrent employment(s); and
- remove regulation 6 from Schedule 5 to the Administration Regulations which incorrectly disapplied regulation 21 of the Scottish Administration Regulations for councillor members (discontinuance of additional regular contributions).

SSI 2010/234 also makes a couple of amendments to the Benefit Regulations. Benefits regulation 9 (final pay) is amended to make it clear that it is the highest actual pay figure in the three years to leaving that can be used to calculate the member's benefits. Benefits regulation 30 is also amended. The intention behind that amendment is to ensure that optants out can only apply for immediate payment of their benefits if

a) they are aged 55 or over and
b) they have ceased local government employment.

The Emergency Budget

On the 22 June, the Chancellor of the Exchequer presented the Emergency Budget to the House of Commons. The full Budget Report is available from HM Treasury's Budget page.

The headlines from the Emergency Budget in respect of pensions are set out below. Items (9) to (11) will have a greater impact in the private sector but are included for completeness. The references in square brackets are the relevant paragraphs in the full Budget Report. There is a certain amount of duplication in the report.

(1) Public service pensions to increase in line with the Consumer Price Index instead of the Retail Price Index. Paragraph 1.106 of the Budget Report states:

> *"Indexation*
>
> *1.106 The Government will use the CPI for the price indexation of benefits and tax credits from April 2011. The CPI provides a more appropriate measure of benefit and pension recipients' inflation experiences than RPI, because it excludes the majority of housing costs faced by homeowners (low income households are subsidised separately through Housing Benefit, and the majority of pensioners own their home outright), and differences in calculation mean it may be considered a better representation of the way consumers change their consumption patterns in response to price changes. This will also ensure consistency with the measure of inflation used by the Bank of England. This change will also apply to public service pensions through the statutory link to the indexation of the Second State Pension. The Government is also reviewing how the CPI can be used for the indexation of taxes and duties while protecting revenues."*

Under section 59 of the Social Security Pensions Act 1975 as amended, and as modified by section 59A of that Act, the Treasury (in whom the functions conferred by those provisions are now vested) are required to provide by order for the increase in the rates of public service pensions. Under section 59(7) of the 1975 Act, section 59 of that Act has effect as if it were contained in the Pensions (Increase) Act 1971. Neither the Social Security Pensions Act 1975 nor the Pensions (Increase) Act 1971 specify that the index to be used is RPI. Indeed, section 59(1) of the Social Security Pensions Act 1975 says that the order should specify the increase as being the same as that used in the direction to uprate specified social security benefits. So, from April 2011 pensions in payment and deferred pensions will be increased by the Pensions Increase (Review) Order which will take account of the rise in the CPI.

(2) Public sector pay will be frozen for 2 years unless the worker earns less than £21,000 per annum – this has implications for LGPS funds' future liabilities. [2.18 & 2.19]

(3) The Government is creating an independent commission, headed by John Hutton, to undertake a "fundamental, structural review of public service pensions" and consider the case for short-term savings by September 2010 in time for the Spending Review. Further details are available on the HM Treasury Website [1.42 & 2.20]

(4) The link to increases in average earnings will be restored to increases in the Basic State Pension from April 2011. The increase in Basic State Pension will be the highest of the increase in average earnings, the increase in RPI and 2.5%. In April 2011, the increase in the standard minimum income guarantee in the Pension Credit will equal the cash rise in the full Basic State Pension. [1.109, 2.33 & 2.36]

(5) The Government is going to review when the State Pension Age will increase to age 66. This will be no earlier than 2016 for men and 2020 for women. [1.109 & 2.34]

(6) The Government is going to consult shortly on how quickly it will remove the default retirement age after April 2011. [1.109 & 2.35]

(7) The Government is going to consult on the details of the removal of the requirement for individuals to buy annuities by age 75. The Finance Bill after this Budget will contain transitional arrangements for those individuals who have yet to secure income and who will attain age 75 in the meantime. From 22 June 2010, individuals will have until age 77 to purchase an annuity. Until April 2011, there will be a 35% tax charge on lump sum death benefits paid out by a scheme for individuals who die on or after 22 June 2010 and who are over aged 75. [1.117 & 2.60]

(8) The restrictions on tax relief on pensions contributions by high earners introduced in Finance Act 2010 will be repealed. The Government is going to consult with pension schemes, industry experts etc on an alternative way of recouping the £3 billion cost to HM Treasury. At the moment, the plan is to substantially reduce the annual allowance to somewhere in the range of £30,000 to £45,000. The anti-forestalling measures, however, will remain in place. The HM Treasury document *Restricting Pensions Tax Relief* provides further information. [1.118 & 2.27]

(9) This autumn's Finance Bill will include changes to the pensions tax legislation to enable the National Employment Savings Trust (NEST) to register as a pension scheme for tax purposes. Further legislation will be introduced in the Finance Bill 2011 to remove tax charges on late contributions following auto-enrolment and to amend the tax rules on unauthorised borrowing by registered pension schemes. [2.152]

(10) Legislation, effective from April 2011, will be introduced to tackle arrangements (including Employer Financed Retirement Benefit Schemes (EFRBS)) which reward employees and seek to avoid, defer or reduce liabilities of employers and directors to income tax and NICs or to avoid restrictions on pensions tax relief. [2.167]

(11) The Government is "supportive of auto-enrolment" and is "committed to reviewing private sector pension reform and will announce a review shortly". [2.124]

HMRC – QROPS

HMRC's Anti-fraud unit contacted an administering authority to request information relating to QROPS transfers to Wenns International Pension Scheme and Southern Star Retirement Fund. HMRC confirmed that the two schemes remain on the current QROPS list, but they were unable to confirm that transfers to those particular schemes are recognised transfers for the purposes of Finance Act 2004. Although

relying on the QROPS list and paying transfer in good faith will "normally provide just and reasonable grounds for HMRC to discharge any liability of the scheme administrator to the scheme sanction charge. (see RPSM14101050 and RPSM04104870)". The quote is taken from an HMRC document on QROPs.

The HMRC lead official on this matter is Alan Bush who can be contacted on alan.bush@hmrc.gsi.gov.uk. One administering authority has contacted Alan Bush and received the following reply from him:

1. *HMRC is unable to comment on particular investigations or enquiries.*

2. *As regards Southern Star and Britannia (the two NZ schemes that have come to our attention in particular) , I would refer you to the wording at the top of the published QROPS list - namely where a scheme administrator relies on the QROPs list and does so in good faith, this should normally provide just and reasonable grounds for HMRC to discharge any liability to the scheme sanction charge should it arise.*

3. *As for Wenns International, HMRC is unable to confirm that any transfer to this scheme is a recognised transfer and scheme administrators could be liable for the scheme sanction charge if it transpires that an unauthorised payment has been made.*

4. *If transfers have been made to Wenns International, HMRC would like to receive details (including transfer paperwork).*

5. *Transfers to all QROPS should be reported on Event Reports in the normal way.*

Note the response refers to a third scheme (Britannia) over which HMRC have concerns. RPSM141055 covers the removal of overseas schemes from the QROPS list. The end of the page contains the following information:

> *"Where the scheme administrator has relied in good faith on the fact that the overseas scheme is included on the latest published QROPS list when making a transfer to it this should provide just and reasonable grounds for HMRC to discharge their liability to the scheme sanction charge if the scheme is subsequently withdrawn from the list by HMRC (see RPSM04104870).*
>
> *This is on the basis that the administrator is expected to have carried out reasonable checks. Before making an overseas transfer the administrator should have checked the published QROPS list, and in particular must have done so no more than one day before the transfer was made. The administrator should keep in their file a printout of the page from the list including the QROPS from the day before the transfer (and also retain a copy of the overseas scheme's QROPS acceptance letter if this has also been obtained).*
>
> *These actions should also provide just and reasonable grounds for HMRC to discharge any liability of the member to the unauthorised payments surcharge (see RPSM04104780). These discharges can be made under section 268.*
>
> *However, there may still be an unauthorised payments charge liability for the member in these circumstances (see RPSM04104510). Enforcement of that charge will depend on the particular facts and circumstances of each individual case."*

The Secretariat also understands that another administrator has contacted The Pensions Regulator (TPR) for advice and the advice received mirrored that from HMRC.

With regard to**;**

Britannia Superannuation Scheme and
Southern Star Retirement Fund

TPR advised that where a scheme administrator relies on the QROPS list and does so in good faith, this should normally provide just and reasonable grounds for HMRC to discharge any liability to the scheme sanction charge should it arise.

With regard to;

Wenns International Pension Scheme,

TPR advised that the HMRC is unable to confirm that any transfer to this scheme is a recognised transfer and the "trustees" could be liable for the scheme sanction charge if it transpires that an unauthorised payment has been made.

Although the advice at RPSM141055 suggests that the administering authority could rely on checking that a scheme is on the QROPS list published no more than one day before a transfer is made, one administering authority has been advised y HMRC that they should also seek to make further reasonable checks such as writing to the member, if he / she is under 55, asking what his intentions are regarding the transfer (e.g. does he intend taking the benefits straight away).

If there are any reservations whatsoever about the nature of the receiving scheme and, in particular the fact that transfers to the Wenns International Pension Scheme could result in a scheme sanction charge, it would be prudent not to make any transfer payments to that scheme.

Bits and Pieces

Circular

The Secretariat has issued [Circular 238] since the previous Bulletin was published. The Circular contains an update on the Annual Trustees' conference and the LGPS Trustee training 'Fundamentals' programme.

Timeline Regulations

The May 2010 update of the Timeline Regulations website included:

England and Wales

- GAD guidance on incoming and outgoing transfers: version 2 new factors from October 2008; and

- GAD guidance on trivial commutations: lump sums paid on or after 1 April 2009

Scotland

- The LGPS (Management and Investment of Funds) (Scotland) Regulations 2010 [SSI 2010/233]
- The LGPS Amendment (Scotland) Regulations 2010 [SSI 2010/234]
- Circular SPN/LG No.3/2010 and version 4 of the guidance on Assessment of Membership Contribution Rates
- Circular SPN/LG No.4/2010 The LGPS (Management and Investment of Funds (Scotland) Regulations 2010
- Guidance under regulation 12(3) of The LGPS (Management and Investment of Funds (Scotland) Regulations 2010
- Circular SPN/LG No.5/2010 The LGPS Amendment Regulations 2010

Legislation

Scotland

SSI Reference	Title
2010/232	The Police Pension Account (Scotland) Regulations 2010
2010/233	The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010
2010/234	The Local Government Pension Scheme Amendment (Scotland) Regulations 2010

Northern Ireland

SR Reference	Title
2010/200	The Social Security (Miscellaneous Amendments No.4) Regulations (Northern Ireland) 2010

Useful Links

The LGE Pensions page

The LGPS members' website

LGPS Discretions lists all the potential discretions available within the LGPS in England and Wales, and Scotland.

Qualifying Recognised Overseas Pension Schemes approved by HMRC and who agreed to have their details published.

Tax Guide (Version 11)

The Timeline Regulations

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Distribution sheet

Pension managers (internal) of administering authorities
Pension managers (outsourced) and administering authority client managers
Officer advisory group
Local Government Pensions Committee
Trade unions
CLG
COSLA
SPPA
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Private clients

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Appendix

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4 June 2010

Dear Terry

Thank you for your letters of 30 July 2009, 21 August 2009 and 23 September 2009, about deferred benefits v. refunds, salary sacrifice and flexible retirement respectively, and for your letter of 22 March 2010 to Brian Town about the Miscellaneous Regulations 2009. I thought it would be helpful to address all the issues in a single reply.

Deferred benefits v. refund of contributions

You may recall that Brian Town wrote to Pat Luscombe about this on 9 April. I attach a copy of Brian's reply. The question of returning to a vesting period of two years is an issue that goes wider than the LGPS which is what we had expected when the change to three months was introduced. I have noted, however, that in the National Employment Savings Trust (NEST), the proposal is to have a one month opt out and refund of contributions period. As such, I would prefer that the two year vesting period remains but that the matter is revisited once the Government's future pension policies become clearer.

Salary sacrifice

Your letter of 21 August 2009 suggests what would, in practice, be a significant expansion of the salary sacrifice provisions. As you recognise, this would need to be accommodated within the policies of other Government Departments, including HM Treasury, HMRC and DEFRA. Our judgement is that it is too early in the life of the new Government to be clear about what their views would be but we are very doubtful if there would be support for a potential loss of tax revenue. But from another angle, there may well be merit in adopting a less rigid set of provisions applying here especially given the points made by the Technical Group. At this stage, I would say that if the LGE and Scheme interests wish to press for a relaxation of paragraph 4(2) of the Benefits Regulations, you would need to evaluate carefully the potential cost to the Scheme at local level. In particular, it would need a much clearer impression of the potential claims of LGPS members who have since the mid-1990's been denied the possibility of a salary sacrifice relating to the

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provision of a car, being made pensionable. The report from Pricewaterhouse Coopers, attached as an appendix to your letter, refers to this area. We would be happy to discuss further.

Cost of flexible retirement

GAD have advised that they will shortly be issuing guidance on this matter and it would be sensible to consider this before deciding whether to press for further regulation. Our initial view, however, is that the main impediment to greater use of flexible retirement is that employers have not thus far been considering the process in the appropriate "total business case" manner and have rather been focussing purely on pensions-related costs. There is a case, therefore, for some constructive thought to be applied; the trade unions are keen on some movement here, as you know.

Local Government Pension Scheme (Miscellaneous) Regulations 2009

Regulation 3(1)(b) – interpretation of the Compensation Regulations

You are correct that there has unfortunately been a mistake with the wording of this paragraph. Fortunately, the new version of the Timeline Regulations correctly shows the effect of the amendment on the 2006 Compensation Regulations. We will put in train the issue of a correction slip as necessary.

Regulation 10 – final pay: reductions

We are not convinced that there is any need to amend paragraph 10(1)(iii). The kind of problems that you describe can be obviated by administering authorities explaining and working with their employers, and by employers doing likewise as regards their employees. In our view, the wording of paragraph 10(4) is sufficiently clear on the "three consecutive years", although we could amend at some point in the future if there was a widespread view that this provision does not work. As regards 10(4), one has to bear in mind the sequential nature of regulations - thus, in this case, keeping in mind what is said in 10(1). Regarding 10(5), this relates to the specific limited circumstances that surround a TUPE transfer and this, in employment law, is regarded as continuous service.

Regulations 11 and 13 – conversion of periods credited under compensation regulations into membership

We accept that, in this case, scheme administrators may consider that the new regulations do not answer all of the questions which they may have. However, the new provisions are very much an easement for actuaries to move from re-charge to pre-funding, with liabilities being grouped together. Although administrators and software providers will no doubt have to "award years of membership" to individuals in order to make their systems work; from the point of view of the Regulations, it is only the *value* of individual's benefits that is important. In practice, the scheme's professionals should therefore treat individual records in a practical way, with the assistance of fund actuaries as necessary, as they did when there was a similar exercise under the 1997 Regulations.

I note the mis-lettering of paragraph 12B(4) and will investigate the possibility of a correction slip. You are also correct to say that, although 13A originated as a specialist provision concerning the Environment Agency, there would be nothing to prevent wider application. We envisage no issues with HMRC regarding these provisions, as this is not intended to increase pensions, but just alter the manner in which they are accounted for. Indeed, augmentation was a route first suggested to us by HMRC.

Regulation 14 – Election to pay additional contributions: survivor benefits

You note that 14A(2) states that an election under 14A(1) must be made no later than 31 March 2011 and suggest ways in which this restriction could be eased. We will consider this – either by providing a further "window of opportunity" or, as you suggest, by relating the member's deadline to their date of forming a co-habiting relationship.

We have noted the problems inherent in 14A(6) and we may, possibly, revoke this part of the regulation

Regulations 18 and 25 – civil partners – comparison with widow's /widower's pension

The intention was certainly that civil partner survivors should be placed in the same position as widow / widower survivors – however, I will check the points you make.

Regulation 29 – Guaranteed Minimum Pension

I agree that the reference in paragraph (2) to paragraph (5) is an illogical one and will investigate the best way to remedy this. However, I do not believe when taken as a whole, that the Regulations permit a member to postpone payment of their GMP indefinitely, nor are we persuaded of the need to update previous sets of regulations in the way that you suggest.

Overall, it may be worth pointing out, given new Ministers' stance on legislation generally, any proposed Scheme changes will need to be fully justified and appropriate in all cases.

Yours ever,
Terry.

T B J Crossley

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9 April 2010

Dear Pat

Local Government Pension Scheme (LGPS)
Deferred benefits v refund of contributions

Thank you for your letter of 26 March addressed to Terry Crossley; he has asked me to reply.

After you first wrote we received letters of support from two other authorities in relation to your concern over the increasing numbers of deferred pensioners with quite small accrued LGPS rights. Whilst Terry Edwards also forwarded views from an actuary, we have had other advice which points out, from an actuarial viewpoint, the gain enjoyed from the funds holding such deferred rights. As with so many actuarial issues there does not appear to be a definitive "right" or "wrong" answer to this particular part of the issue you have brought to our attention.

In terms of administration costs some authorities have advised that the ongoing cost is actually minimal. Both the LGPS and the over-riding DWP legislation require a termination calculation to be made. This is because after 3 months membership a cetv offer needs to be available to a pension scheme member not simply the offer of a refund of their contributions. This is a fundamental part of the wider DWP agenda to encourage portability and reduce the number of refunds during an individual's whole working life. There is an annual administration cost, both in terms of this initial assessment and subsequent posting of annual benefit statements, but it is felt that this is outweighed and more than covered by the investment return generated by the funds held in respect of these individual former members.

It also has to be noted that the three month vesting and qualifying period was introduced with the strong support of all trades unions with a local government interest. This has not changed – and indeed a number of funds have not indicated the same degree you have argued – and it was not felt to be appropriate to remove such a provision from the LGPS. To do so still seems to run counter to the wider DWP policy which the planned NEST proposals will build on from 2012. In due course it had been hoped that the delivery of the NEST arrangement could be used to reduce the burden you have pointed out. There is also the issue that paying refunds generates potential problems with the operation of the current tax regime.

I am sorry if you find this answer disappointing, but the points you have made have not been ignored and will be taken into account in any future discussions on the direction of travel of public service pension schemes and the LGPS in particular.

Yours sincerely

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