Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 75 – October 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. LGPC contacts can be found at the end of this Bulletin.

This month Bits and Pieces includes items on the rebranding of the Department for Communities and Local Government and the Timeline Regulations.

Contents

The Government's Independent Public Service Pensions Commission

The Independent Public Service Pensions Commission issued its interim report on 7 October 2010. Although the report is 176 pages long, there is a certain amount of repetition and it appears the Commission is keeping its powder dry until the full final report is published next Spring. The Secretariat has issued a summary of the interim report.

The report accepts that public service pension schemes are part of the overall remuneration for public sector workers and have a part to play in the public sector's ability to recruit and retain staff. The report also rejects the claim that public sector pensions are "gold-plated". In 2009/10. the average LGPS annual pension was £4052 while the average for the 5 largest public sector schemes was £6497. Interestingly, the report acknowledges that it would be a mistake to bring the level of pension provision in the public sector down to the level of the provision in the private sector.

The report noted the previously announced switch in indexation from RPI to CPI will amount to a reduction of approximately 15 % in the value of benefits to scheme members. The switch to CPI in combination with other earlier reforms to the public sector pension schemes will lead to an estimated 25% reduction in the overall value of the benefits to scheme members. September's RPI and CPI supplied evidence of the future reduction in the value of benefits to public sector scheme members: RPI was at 4.6% while CPI was 1.5% lower at 3.1%.

In the short-term, the Commission believes the best way to make further savings is to increase the contribution rate of members with some sort of protection for the low paid.

As regards the long-term, the report accepted that the final salary defined benefit schemes will have to be reformed but a move to a standard defined contribution scheme would not be appropriate. The Commission has identified four principles which should govern the reform of the public sector pensions. These are:

- affordable and sustainable;
- adequate and fair;
- support productivity; and
- transparent and simple.

The Commission will be considering a variety of options for the future structure of the public sector pension schemes.

The Commission has stated, however, that the commitment to protect accrued rights does not extend as far a protecting the current terms for **future** pension accrual. The years of pensionable service (accrued so far) and based on a particular pension age will not be changed. After the appropriate notice and meeting the requirements for consultation on changes to the scheme rules, the Commission is of the opinion that it should be possible to amend the scheme rules in respect of **future** service of existing active members.

The decision on the future structure will bear the amendments to pensions taxation in mind.

Any decisions on the appropriate pension ages for public sector schemes and whether those schemes should remain contracted-out of the State Second Pension (S2P) will be taken after consideration of any further developments in the provision of State Benefits, the ages at which those benefits are available and the arrangements for contracting out of S2P.

In its final report, the Commission will consider simplifying the numbers and the types of public sector schemes. It will also examine greater flexibility for individual employers in the determination of benefit structure as well reviewing eligibility for membership of public sector schemes.

The final report will include a section on the administration of public sector schemes which will investigate the scope for rationalisation and the reduction of costs. This may involve the possible consolidation of functions across different schemes and units within a scheme.

The Commission has received evidence regarding the variation in costs between the different LGPS funds and the potential efficiency savings to be had from a reduction in the number of LGPS funds.

Importantly, the Commission has concluded that the LGPS should remain a funded scheme.

On Fair Deal, the Commission noted that pensions can have an impact on the different ways in which public services are provided. Evidence to the Commission had made it clear that current pension structures, combined with the requirement to provide comparable pensions (‘Fair Deal’), are a barrier to non-public service providers, potentially making it more difficult to achieve efficiencies and innovation in public service delivery. The Commission believes it is for the Government to consider carefully the best way of moving forward with Fair Deal in a way that delivers its wider objective of encouraging a broader range of public service providers while remaining consistent with good employment practices. For its part, the Commission says it will focus in its final report on addressing the issue of how long-term structural reform to public service pensions can support greater labour market mobility and improved productivity.

Public Sector Spending Review

Review of public service pension schemes

During his speech on the Public Sector Spending Review the Chancellor of the Exchequer said that the Government accepted the findings of the Independent Public Service Pensions Commission. As mentioned above, the report from the Commission had highlighted the importance of providing good quality pensions to public servants, rejected a race to the bottom in pension provision, but concluded that there is a clear rationale for public servants to make a greater contribution if their pensions are to remain fair to taxpayers and employees, and affordable for the country. The Government has accepted these conclusions. In response to the Commission’s interim recommendations, the Government will:

- commit to continue with a form of defined benefit pension;

- await Lord Hutton's final recommendation before determining the nature of that benefit and the precise level of progressive contribution required;

- carry out a public consultation on the discount rate used to set contribution rates in the **unfunded** public service pension schemes;

- implement progressive changes to the level of employee contributions that lead to an additional saving of £1.8 billion a year by 2014-15, equivalent to three percentage points on average, to be phased in from April 2012 (see note below). Full details, including consideration of Lord Hutton's recommendation to phase in the increase and provide protection for the low paid will be announced at Budget 2011. The increases will apply to unfunded public service pensions schemes, with the exception of the Armed Forces Pension Scheme, and will also apply to the funded Local Government Scheme;

- launch a consultation on the Fair Deal policy, which Lord Hutton noted can create a barrier to the plurality of public service provision and make it more difficult to achieve innovation, to report by Summer 2011, informed by Lord Hutton's final recommendations on structural reform; and

- seek engagement with all stakeholders including trade unions.

Note:

The figure of £1.8 billion across the public service pension schemes is broken down as follows:

	£million		
2011-12	2012-13	2013-14	2014-15
0	160	1,270	1,760

It appears that the increase in employee contributions is in addition to the projected increase in the yield from employee contributions across the public service pension schemes of £1 billion per annum from 2012-13 onwards as a result of cap and share.

State pension

Other pension matters included in the Spending Review were a confirmation of the Government's commitment to uprate the basic State Pension by a triple guarantee of earnings, prices or 2.5 per cent, whichever is highest, from 2011.

Also, as a result of increasing longevity and demographic change the Government is to speed up the pace of State Pension Age equalisation for women from April 2016 so that Women's State Pension Age reaches 65 in November 2018.

The State Pension Age will then increase to 66 for both men and women from December 2018 to April 2020.

Following the faster increase to 66, the Government is also considering future increases to the State Pension Age to manage the ongoing challenges posed by increasing longevity, and will bring forward proposals in due course.

Auto enrolment and NEST

The Spending Review confirmed that auto-enrolment will go ahead from 2012 and that the National Employment Savings Trust (NEST) will be established to facilitate this. Also, on 27 October 2010 the Government published the outcomes of the independent review in to how to make automatic enrolment work.

LGPS 2008 - Regulation 10 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended)

Bulletin 71 included an article on the discussion at the Technical Group meeting of 16 June in respect of regulation 10 of the Benefit Regulations. The interpretation of this regulation was discussed 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 article in Bulletin 71 stated that:

> "The Technical Group was informed [by the CLG representative at the Technical Group] 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 did not believe this to be the case and requested that CLG confirm the policy intention. CLG have subsequently confirmed that what was said at the Technical Group meeting of 16 June was **not** correct. A member of the LGPS can rely on Benefit Regulation 10 where he or she voluntarily moves 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).

LGPS 2008 – Former Magistrates' Courts Transfer

The Secretariat has received a number of queries over the exercise of decisions under the LGPS Regulations and related compensation regulations in respect of former employees of the Magistrates Courts Committees. The Secretariat believes right to exercise decisions in respect of these former employees transferred to the Lord Chancellor under regulation 13 of the Transfer of Property (Abolition of Magistrates' Courts Committees) Scheme 2005. Although there was a clean break settlement (see letter in Annex 1 at the end of this Bulletin), it is understood that was for liabilities for matters such as changes in mortality, PI, etc. If the Lord Chancellor were to agree to, for example, the early release of a deferred benefit that would, in the Secretariat's opinion, go beyond the clean break settlement and so the Lord Chancellor's department would have to meet the strain on fund cost.

LGPS – GAD guidance on transfers

Version 2.1 of the actuarial factors for Individual Cash Equivalent and Club transfers from 1 October 2010 and the pensioner cash equivalent factors for pensioner divorce cases have been issued for LGPS in England and Wales. The equivalent factors have also been issued for the LGPS in Scotland. The new factors are consistent with the announcement in the Emergency Budget of 22 June that indexation of the public sector schemes will be based on CPI in future.

The set of factors are incomplete as they do not include inward non-Club transfer values. The lack of inward non-Club factors presents administering authorities with a dilemma. If administering authorities decide to stockpile inward non-Club transfers then the member could be aggrieved if the market level moves against him or her in the interim period. If administering authorities use the existing factors (because they are the only ones available) the resultant service credit will be understated (but at least this could be rectified, if necessary, via a subsequent recalculation when the factors are eventually issued). In relation to non-Club transfers in the letter from CLG dated 28 September 2010 which accompanied Version 2.1 of the actuarial factors for Individual Cash Equivalent and Club transfers from 1 October 2010 states:

"Funds can continue using the extant GAD guidance but need to be aware of the limited risk involved in that the exporting scheme may have prepared its CETV on a CPI basis and the old guidance provides membership on a RPI basis".

The latest version of the transfer factors are available from the Timeline Regulations website.

LGPS 2008 – GAD guidance on trivial commutations

The Secretariat has been copied in on correspondence between LPFA and CLG regarding paragraph 2.17 of the most recent version of the GAD guidance on Trivial Commutation (which is dated 26 March 2010). Paragraph 2.17 appears under the heading "Table B" and reads:

> *The factors in this table are to be applied to the member's contingent survivor's pension whatever the member's marital / partnered status at the capitalisation date and then added to the values of the member's pension as calculated using the Table A factors. Where there is potentially contingent survivor cover for service prior to April 1988, this should – except where the current status would not confer such cover – be reflected in the contingent pension valued, but in other cases, no account should be taken of any such pre-88 service in valuing contingent survivor benefits."*

LPFA's query was whether a separate contingent survivor's element should be included in the calculation of a trivial commutation for those single at the date on commutation. If so, on what membership should that contingent survivor's element be based? A member might prospectively enter into marriage, a civil partnership or nominate a partner. The contingent partner's benefits could potentially vary depending on the type of relationship and depend on the state of retirement.

CLG replied in a letter (dated 7 September) which is re-produced in Annex 2 to this Bulletin and stated:

> *"Paragraph 2.17 of the 2010 guidance was intended to convey that where there is potential contingent cover, then the highest contingent pension amount should be used. For example, where a single male member had service before and after April 1988, then all service should count towards a contingent survivor's pension, even though the survivor's pension would be lower if the member entered into a civil partnership or nominated a partner. However, for a married or partnered member,*

Table B must apply to the level of contingent pension that reflects their current status, with service before April 1988 being included or excluded as appropriate".

On reading the CLG response and paragraph 2.17 of the current Trivial Commutation guidance, paragraph can be read to say that if at the point of leaving the member is:

(a) married, use all membership;

(b) in a civil partnership and left pre 1 April 2008, use post 5 April 1988 membership (as defined in regulation 42A of the LGPS Regulations 1997);

(c) in a civil partnership and left after 31 March 2008, use all membership;

d) co-habiting with a nominated co-habitee and left after 31 March 2008, use post 5 April 1988 membership (plus any pre 6 April 1988 membership purchased by the member); or

e) single, use all membership

Consequently, it bizarrely appears to mean that a single member gets a larger trivial commutation payment than member falling into categories (b) or (d) above.

LGPS 2008 – Interest for Late Payment of Lump Sum

Bulletin 53 contained a table which represented the Secretariat's understanding of the provisions with respect to interest for late payment of benefits under the LGPS (Administration) Regulations 2008. Regulation 50 of the LGPS (Miscellaneous) Regulations 2010 amended regulation 51(3)(b) of the LGPS (Administration) Regulations 2008. The effect of the amendment is that in the calculation of interest for late payment of a lump sum the due date is now the BCE date instead of the date the lump sum become payable (although the Secretariat is aware that a decision has been taken in relation to some of the pensions administration systems that interest will be calculated as from the date the lump sum became payable).

The Secretariat intends to amend the table contained in Bulletin 53 and load the amended table onto the LGE website.

LGPS – Refund of Contributions for a member who is also a Pension Credit member

It is not possible to refund contributions for a member who is also a Pension Credit member in the same **scheme**. The relevant parts of the Finance Act 2004 are s166 and paragraphs 5(1)(c) and (d) of Schedule 29. Paragraph 5(1)(d) says that the refund is an authorised payment if it extinguishes the member's entitlement to benefits under the pension scheme (except to the extent that it is prohibited from being extinguished by the payment of a lump sum by reason of the operation of provision made by or under any enactment). Section 151(1) defines member as follows:

(1) In this Part "member" in relation to a pension scheme, means any active member, pensioner member, deferred member or pension credit member of the pension scheme.

So, the main alternatives available to an administering authority are:

(a) pay the refund as an authorised refund, which would wipe out the pension credit benefits, or

(b) pay the refund as an unauthorised refund and notify it to HMRC as such

Most members would rather option (b) was applied.

LGPS Funds Statistics for 2009/10

CLG published the latest SF3 statistics on 13 October. This latest set of statistics contains data from 2005/06 to 2009/10. The headline numbers for England are:

- LGPS expenditure in England on benefits in 2009/10 was £6.3 billion which was an increase of 13% on the previous year;
- employees' contributions totalled £2.0 billion (an increase of 3%) while employers' contributions increased by 7% to £5.8 billion;
- income from investments dropped by 10% to £2.6 billion;
- there were nearly 1.7 million active members in the LGPS at the end of March 2010;
- the number of deferred beneficiaries rose to 1.2 million; and
- the number of pensions increased to over 1.1 million.

The 2009/10 statistics for Wales and Scotland are also available.

Restriction of pensions tax relief

On 14 October, HM Treasury published five documents: they are

- a written ministerial statement on the restricting pensions tax relief,
- a discussion document which summarises the responses to consultation on restring pensions tax relief through existing allowances;
- a GAD document on reducing the Annual Allowance and setting the valuation factor;
- draft legislation and explanatory note; and
- draft guidance for individuals on the reduced annual allowance.

After due consideration of the responses received on the alternative proposals to restricting pensions tax relief, the Government has decided the following.

The Annual Allowance (AA)

- From April 2011, the AA for tax-privileged pension saving will be £50,000 (reduced from £255,000 in 2010-11), but higher than the originally proposed figure in the range £30,000 to £45,000.

- There is no proposal to index the level of the AA during the forecast period to 2015-16. Beyond that, the Government will consider options for indexing the level of the AA.

- Relief will be available at an individual's marginal tax rate.

- The tax charge for exceeding the AA will be a tailored charge, to recoup the full marginal rate relief that an individual has benefited from.

- Deemed contributions to DB schemes will be calculated via a flat factor. Reflecting the Government Actuary's advice, the level of the factor will be set at 16, meaning that an increase in annual pension benefit of £1,000 would be deemed to be worked £16,000.

- Deferred members will be exempt from the AA regime.

- At the end of the current year's Pension Input Period (ending on a 31 March in the LGPS) the previous year's accrued pension benefits will be revalued for **active** members by CPI (as measured at September).

- Any negative accruals will continue to be treated as zero.

- No exemption from the AA test will apply to individuals claiming enhanced protection, and no exemption will be granted in the year that benefits come into payment.

- The AA test will not be applied in the year of death, or in the case of lump sums paid where individuals are diagnosed with serious (terminal) ill-health. The Government also recognises that in some cases of major ill-health, it would be inappropriate for the AA to apply. The Government will therefore look to exempt ill health benefits from the AA regime. The Government intends to set out further details around how such an exemption will operate, managing the risks of avoidance that it could open up, in the draft Finance Bill 2011.

- Exemptions will not be granted in cases of redundancy. [Note: it is understood that this simply means that any increase in **pension** benefits awarded by an employer on redundancy, such as an employer granting augmented membership in the LGPS or awarding up to £5,000 of extra pension, would be taken into account in the AA test; but there will be no additional value attributed to the main scheme benefits being brought into payment at an unreduced rate earlier than the normal retirement date. It is as yet unclear whether compensation derived from the award of Compensatory Added Years by a Scottish employer, particularly if the annual compensation is paid via the Pension Fund and recharged to the employer, would constitute a pension benefit for the purposes of the Annual Allowance].

- The Government intends to operate a simple flat factor that does not vary to reflect the value of pensions taken from an earlier age.

- The Government will bring forward legislation to prevent avoidance that could otherwise occur through exceptional increases in the value of a pension in payment.

- Where individuals exceed the AA in a given year, unused allowance from up to three previous years will be available to offset against the excess pensions savings. Carry-forward will be available against an assumed AA of £50,000 for the tax years 2008-09, 2009-10 and 2010-11.

- The Government understands that, generally, schemes can be redesigned in a way that does not affect accrued rights and therefore that there should not be legislative barriers to doing so. However, it recognises that in some cases scheme trustees may not have the power to amend their rules in this way. It will therefore continue to engage with interested parties, together with DWP, and will take action if necessary, consistent with its overall principles of simplicity, fairness and protection of the public finances, to support employers and schemes in adapting to the new regime.

- Some individuals will – due to a significant boost to their pension rights in a given year – incur charges for exceeding the AA that are unmanageable in-year, from current income. The Government is therefore considering options for those individuals to pay the charge out of their pension entitlement, rather than current income. This reflects the point that it is a significant increase in that pension wealth that has resulted in the liability. One option is for the scheme to pay the charge on behalf of an individual at the point at which the charge arises. Another option is for excess contributions above the AA, or tax liabilities, to be "rolled up" until the point of benefit crystallisation. The Government will assess options against their impact on the public finances, and administrative complexity and burdens for schemes and HMRC, while ensuring that the regime remains robust against risks of avoidance.

- Pension Input Periods (PIPs) will not be compulsorily aligned with the tax year. Schemes wishing to align their PIPs with the tax year will, as now, be able to do so. [Note: the PIP for the LGPS runs from 1 April to 31 March – see regulation 33(2) of the LGPS (Administration) Regulations 2008 and regulation 30(2) of the LGPS (Administration) (Scotland) Regulations 2008].

- Transitional rules for PIPs will be introduced on 14th October (taking immediate effect). These will apply to those whose PIP for 2011-12 has already started. [Note: the transitional rules are not applicable to the LGPS].

- Where individuals have (deemed) contributions over the AA in a pension arrangement, the scheme must provide the member with their pension input amount for the relevant year within six months of the end of the tax year. Where individuals request this information, pension schemes must provide details on the pension input amount by the later of 3 months from the request and 6 months from the end of the tax year.

- Employers must provide information about employees' pensionable pay, benefits and service to pension schemes by 6th July following the end of the tax year.

- For the first year only, employers and pension schemes will be given an additional 12 months, i.e. until 6th July 2013 or 6th October 2013 respectively, to provide the required information.

The lifetime allowance (LTA)

- From April 2012, the LTA for tax-privileged pension saving will be £1.5m (reduced from £1.8m in 2010-11).

- The Government is minded to maintain the LTA valuation factor at its current level of 20.

- The LTA tax charges will remain unchanged (55 per cent if benefits in excess of the LTA are paid as a lump sum and 25 per cent if paid from annual pension income, on top of marginal rate tax on the pension income).

- The maximum tax-free lump sum will remain at 25 per cent of the standard LTA.

- From April 2012, the trivial commutation limit will be de-linked from the LTA (where it is currently set at 1 per cent LTA). It will remain at its current level of £18,000.

Legislation

- HMRC are taking comments on the draft legislation for the AA regime, to ensure that it delivers the Governments stated policy intent. The Government will publish the consolidated draft clauses for the AA and LTA as part of the consolidated draft clauses planned for Finance Bill 2011, due to be published for consultation towards the end of 2010. The Government will publish a full initial impact assessment alongside this.

- The Government intends to repeal the “high income excess relief charge” measure, inherited from the previous Government and legislated at Finance Act 2010 (April). The Treasury Order which achieves this will be laid in parallel with the publication of the draft Finance Bill 2011 legislation. This draft legislation will also include the regulations which will turn off the special annual allowance (the anti-forestalling regime) at 6 April 2011.

Other matters

There are a number of matters that the HM Treasury document does not directly address. These are set out below together with our working assumptions as to what the Secretariat thinks the logical answers should be. The Secretariat will seek to obtain definitive answers from HM Treasury.

Annual Allowance in the year of leaving

Under the current Annual Allowance test, benefit accrual in the year of leaving is ignored. Under the new Annual Allowance test, benefit accrual in the year of leaving is to be taken into account. Only the benefits actually accrued in the year of leaving are valued. So if, for example, a scheme member leaves early in the 2011-12 Pensions Input Period, say on 31 May 2011, the value of the benefits assessed at the end of March 2012 will have increased only marginally compared to the value of the benefits at the end of March 2011 (as increased by CPI) as the member will have only accrued benefits from 61 days of membership in 2011-12.

Benefits drawn with an actuarial reduction

Take the case of a member whose benefits are valued at 31 March 2011, when the member is aged 59. The value of the benefits at that point (which are not due for payment until age 65) will be the accrued pension x 16 plus the accrued lump sum. One year later, the member retires at 31 March 2012, aged 60 with a 5 year actuarial reduction. The assumption is it is the value of the unreduced pension benefits at 31 March 2012 that is to be compared with the value of the pension benefits at 31 March 2011. This seems logical as it is the value of the benefits that accrued during the year (and not the value of the benefits being drawn) that is being compared to the value of the benefits accrued to the previous 31 March. When the benefits are drawn is irrelevant and so the actuarial reduction is ignored.

Benefits drawn with an actuarial increase

If a member retires post age 65, the benefits paid are actuarially increased. For the same reasons set out above, the Secretariat assumes that the actuarial increase is ignored.

Benefits drawn early on the grounds of redundancy / business efficiency

If an employer grants augmented membership or awards up to £5,000 of extra pension, this would be taken into account in the AA test; but there will be no additional value attributed to the main scheme benefits being brought into payment at an unreduced rate earlier than the normal retirement date.

Award of Compensatory Added Years

It is as yet unclear whether compensation derived from the award of Compensatory Added Years by a Scottish employer, particularly if the annual compensation is paid via the Pension Fund and recharged to the employer, would constitute a “pension benefit” for the purposes of the Annual Allowance.

Flexible Retirement

If a member takes some or all of their accrued benefits on flexible retirement the assumption is that it is simply the value of the benefits accrued during the year that is assessed. The fact that some or all of the benefits may have been drawn (perhaps, even, with an actuarial reduction) is irrelevant for the purposes of the Annual Allowance calculation.

Additional Voluntary Contributions

When performing the Annual Allowance calculations at each 31 March the amount of AVC contributions paid during the year should be added to the assessed value of the LGPS benefits.

Additional Regular Contributions (ARCs)

The Secretariat assumes that ARCs should be treated as purchasing a defined benefit rather than be treated, like AVCS, as a money purchase benefit. If this assumption is correct then, when performing the Annual Allowance calculations, it would be logical, at each 31 March, to include in the annual LGPS pension the amount of pension purchased at that point in time via ARCs.

Buying out an added years contract.

When performing the Annual Allowance calculations, it would be logical, at each 31 March, to include in the valuation of the LGPS benefits the proportion of the added years membership purchased at 31 March. A scheme member who is purchasing added years and who, on redundancy or efficiency retirement, has not completed payment for the added years can elect to buy-out the balance of the contract. If the member does so, this will increase the value of the LGPS benefits in the year of leaving which could, potentially, tip the increase in the value of the benefits over the Annual Allowance figure of £50,000. Members would need to take this into consideration when deciding whether or not to capitalise the outstanding added years contract. Furthermore, technically capitalisation can only occur after leaving. As far as the Secretariat is aware, there is nothing in the Finance Act 2004 to prevent a member paying a contribution to the Scheme after leaving but whilst such a payment can be made it is not, in our view, tax relievable. This is because section 188 of the Finance Act 2004 only refers to tax relief being given if the member is an active member. So, if capitalising the added years contract tipped the increase in the value of a member's benefits over the Annual Allowance figure of £50,000 there would be a resulting tax bill even though the member had received no tax relief on the contributions to buy-out the balance of the added years contract.

Aggregation of LGPS benefits

If a member of the LGPS moves from one Fund in England or Wales to another Fund in England or Wales, or from one Fund in Scotland to another Fund in Scotland, or from one employer in a Fund to another employer in the same Fund, part way through a year but with no break in service, the calculation of the Annual Allowance would appear to be as follows

Job	Opening Value	Closing Value	
Job 1	£82,200	£0	
Job 2	£0	£104,000	Pension Input Amount
Total	**£82,200**	**£104,000**	**£21,800**

If the member had received a substantial increase in pay on moving to the new job the Pension Input Amount the calculation might have produced the following

Job	Opening Value	Closing Value	
Job 1	£82,200	£0	
Job 2	£0	£133,000	Pension Input Amount
Total	**£82,200**	**£133,000**	**£50,800**

The unused Annual Allowance from the previous 3 years could be offset against the £800 excess over £50,000.

Let's now assume that the member had been out of membership of the LGPS for, say, 15 years working in the private sector and, upon rejoining the LGPS, elects to aggregate his earlier deferred LGPS membership. When he left local government he was in a relatively lowly paid job but returns to local government as a Chief Executive. The Pensions Input Amount for the year in which the benefits are aggregated is:

Job	Opening Value	Closing Value	
Job	£0	£104,000	Pension Input Amount
Total	**£0**	**£104,000**	**£104,000**

For the previous 3 years the member had accrued no benefits in the LGPS and had not paid into any other pension arrangement (other than S2P). Can the unused Annual Allowance for those 3 years (3 x £50,000 = £150,000) be used to reduce the £54,000 excess? Not according to the HMRC website. This doesn't really seem logical given that if the member had paid a minimal amount into the private sector scheme or a personal pension for those three years the unused Annual Allowance from those 3 years could be used to reduce the £54,000 excess.

Guidance from the LGPC

The Secretariat is currently working on guidance with worked examples and will issue this as soon as possible.

The redundancy and early retirement schemes survey 2010

The results of LG Employers' first redundancy and early retirement schemes survey are now available on the LGE website. The database provides information on authorities' current policies and will be useful to authorities seeking information on current practices. Please note that the survey result documents are restricted to local authority members.

Bits and Pieces

The Department for Communities and Local Government

From Monday, 25 October, CLG have reverted back to the Department for Communities and Local Government (DCLG). In future all correspondence should reflect the new full title of the department.

Timeline Regulations

The October update of the Timeline Regulations website included the following amendments.

England and Wales

There is now a hyperlink to the Ravensbourne Direction 2010 in paragraph 5 of the table in Part 1 of Schedule 4 to the Administration Regulations. The most recent version of the Administration Regulations now incorporates the amendments made by The Valuation Tribunal for Wales Regulations 2010 [SI 2010/713] and The Local Education Authorities and Children's Services Authorities (Integration of Functions) (Local and Subordinate Legislation) Order 2010 [SI 2010/1172].

CLG's cover letter for the LGPS (Miscellaneous) Regulations 2010 has been added to the Statutory Instruments page. Version 2.1 of the Actuarial Factors for Individual Cash Equivalent and Club Transfers and version of 2.1 of the Cash Equivalent factors for pensioner divorce together with the CLG cover letter have been added to the GAD guidance for the post 31 March 2008 scheme.

The most recent version of the LG (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 now includes the amendments made by The Local Education Authorities and Children's Services Authorities (Integration of Functions) (Local and Subordinate Legislation) Order 2010.

Scotland

Version 2.1 of the Actuarial Factors for Individual Cash Equivalent and Club Transfers and version of 2.1 of the Cash Equivalent factors for pensioner divorce have been added to the GAD guidance for the post 31 March 2009 scheme.

United Kingdom

The Central Club Factors and a cover letter from the Cabinet Office have been added to United Kingdom guidance page.

Legislation

United Kingdom

SI Reference	Title
2010/2429	The Social Security (Miscellaneous Amendments) (No.5) Regulations 2010
2010/2450	The Social Security (Contributions) (Amendments No.5) Regulations 2010
2010/2496	The State Income Tax (Pay As You Earn) (Amendment No.2) Regulations 2010

Northern Ireland

SR Reference	Title
2010/257	The Occupational Pension Schemes (Investment) (Amendment) Regulations (Northern Ireland) 2010
2010/311	The Social Security (Miscellaneous Amendments) (No.5) 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

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Local Government House
Smith Square
London, SW1P 3HZ

or email: david.friend@local.gov.uk
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Annex 1

Joint Actuaries' letter
Transfer of MCC staff from LGPS to Civil Service Pensions

To: LGPS Administering Authorities with a participant MCC as at 31 March 2005

Date: 23 May 2005

Dear Chief Executive

Abolition of Magistrates' Courts Committees (MCC) and Transfer of MCC staff from LGPS to Civil Service Pensions: Arrangements for Transfer of Pension Liabilities

This letter comes jointly from the Government Actuary's Department (GAD), which acts for the Department for Constitutional Affairs (DCA), and Hymans Robertson who have been leading in this matter on behalf of the Association of Consulting Actuaries (ACA), whose members advise the administering authorities of the various local authorities pension funds affected.

As you know, the MCCs were abolished on 1st April 2005 and their staff, in the main, have transferred to a newly created organisation, Her Majesty's Courts Service, an agency of DCA or to the DCA itself. This is a major change programme, involving the transfer of well over 10,000 staff from 42 MCCs. For the avoidance of any doubt, these terms do not apply to the separate transfer of staff employed by the Greater London Magistrates Courts Authority.

As part of the transfer arrangements, MCC staff joining DCA will no longer be eligible to be active members of LGPS and instead will have access to Civil Service pensions (CSP). However financial liabilities of the 41 MCCs associated with the LGPS funds will be assumed by DCA. From the outset, DCA has been anxious to achieve agreement to a set of principles to be applied to all LGPS Funds involved.

In order to avoid the need for a large number of separate negotiations, a working group was established in 2004 with representatives from local authorities, their actuaries, ODPM, the Employers' Organisation for local government, and GAD.

The DCA's preferred option is that there should be a clean break. This means that the current LGPS fund will be solely responsible for meeting benefit payments to pensioners and deferred pensioners out of the monies left behind. It is a matter for each fund to determine whether all the employers collectively provide that guarantee, or just those that previously partially funded the MCC.

Agreement has now been reached between GAD and the ACA on a set of terms for calculating the transfer payment payable to CSP. These are the terms under regulation 119 of the Local Government Pension Scheme Regulations 1997. The principles are set out at Appendix 1. Additional details on the process and timetable are set out at Appendix 2.

You will, of course, need to consider these principles in your capacity as administering authority and make your own determination as to whether they are indeed acceptable for your fund. The purpose of this letter is to ask you to consider the matter: if the principles are acceptable, please sign the second copy of this letter enclosed and return to Sherry Naidoo at GAD by 30 June 2005.

If you have any queries on the terms please do not hesitate to contact Douglas Anderson.

Yours sincerely

....	....
Stephen Humphrey	W Douglas B Anderson
On behalf of Government Actuary's Department	On behalf of Hymans Robertson LLP

This letter and the transfer principles shown at Appendix A thereto have been considered and are acceptable to this LGPS fund.

....

On behalf of [...] Date
I insert name of LGPS fund

Please return counter-signed copy to:

Sherry Naidoo
Government Actuary's Department
Finlaison House
15-17 Furnival Street
London EC4A 1AB

Appendix 1

Proposed Transfer Principles

Proposed Bulk Transfer Terms

Background

- The effective date of the transfer of assets and liabilities is 31 March 2005.
- The residual liabilities will not be known until the outcome of the Civil Service options exercise for transferred employees is known. This is not expected to be known until late 2005 at the earliest.
- There would be a clean break – i.e. no ongoing central Government guarantee for the liabilities left behind.
- The funds included within the scope of this arrangement are those associated with the 41 MCCs listed in Annex A. Any liabilities which are not reflected in actuarial valuations of Funds associated with these MCCs are out of scope.
- The proposals set out here are being put forward by the Association of Consulting Actuaries Local Government Committee, after consultation with the Employers' Organisation and the Society of County Treasurers.

Calculation of Transfer Payment to Civil Service Pension Scheme

The transfer payment for the Magistrates Court Committee (MCC) from (or to) each fund would be calculated, using the assumptions and methodology detailed below, as at the Date of Calculation as:

$$\text{Asset share relating to MCC as at 31 March 2005, rolled forward to date of calculation in line with roll-forward (i) (A)} - \left(\text{Value placed on residual pensioner liabilities as at 31 March 2005, rolled forward to date of calculation in line with roll-forward (ii) (P)} + \text{Value placed on residual deferred pension liabilities as at 31 March 2005, rolled forward to date of calculation in line with roll-forward (iii) (D)} \right)$$

Details

1. If the above quantity is negative (i.e. insufficient assets), the Department for Constitutional Affairs (DCA), would be responsible for the shortfall.
2. The pensioner and deferred pension liabilities would include the actual April 2005 pension increase (based on September 2004 RPI).
3. Pensions would <u>include</u> spouses' and children's pensions in payment and future pensions payable after the death of current pensioners and deferred pensions.
4. They would exclude any supplementary pensions paid on a pay-as-you-go basis e.g. Crombie payments. These become the responsibility of DCA under a Property Transfer Scheme (The Transfer of Property (Abolition of Magistrates' Courts Committees) Scheme 2005 dated 30 March 2005)

5. The liabilities for pensions payable from April 2005 would be discounted at the annualised real redemption yields on 31 March 2005. For deferred pension liabilities the rate applied would be the average of the 2020 2.5% index-linked gilt and 2035 2% index-linked gilt. For pensions in payment, the rate applied would be the 2020 2.5% index-linked gilt (prices on dmo.gov.uk).

6. The discount rate applying to the portion of the pension relating to non-increasing GMP payments (once in payment), that is GMP accrued between April 1978 and April 1988, will be discounted at the above discount rates <u>plus</u> a margin of 2.5% a year. GMPs in the period of deferment up to state pension age will be discounted at the above discount rates less 1.5% a year.

7. The projection of future pension payment would assume the mortality rates for PMA92/PFA92 C = 2015 for pensions in payment, C= 2030 for deferred pensioners, with an age ratings as shown in the table below:

	Member		Spouses	
	Men	Women	Men	Women
Age Retirement Pensioners				
• Former officers	- 2	- 2	- 2	- 1
• Former manuals	0	0	0	+1
Ill Health Retirement Pensioners	+2	+2	- 2	- 1

8. Proportion married at death as set out in Annex B.

9. No cessation of spouses' pensions on remarriage anticipated.

10. An allowance for future administration expenses of £30pa would be added for every residual member's pension and deferred pension. This addition would be capitalised using the same assumptions as specified here. This allowance excludes the costs of administering any supplementary CAY or Crombie payments, and the advisory and administration costs of arranging the bulk transfer, which would be met by DCA.

11. The market value of assets at 31 March 2005 will be estimated by rolling forward from the 31 March 2004 valuation, assuming net cash flow incurred on average half way through the financial year. Asset figures to include credit for any outstanding instalments of payments for previous early retirements (i.e. payments due after 31 March 2005, but not yet received).

12. No cash equivalent underpin applies to the transfer payment.

13. The figures will be calculated at a Date of Calculation, not more than 10 days before the expected date of payment.

14. Roll Forward Adjustments to Date of Calculation

    <u>(i) For Fund Assets (A)</u>

    For periods for which actual individual fund returns are available, the actual return on the relevant fund.

For other periods, using a proxy for the actual return from a notional portfolio comprising the following:

- 75% of the total return on the FT Actuaries All Share Index
- 25% of the total return on the FT Index Linked Gilt Index (over 15 year stocks)

(ii) For Pensioner Liabilities

The total return on an investment in the 2020 index-linked gilt.

(iii) For Deferred Pensioner Liabilities

The total return on an investment 50% in the 2035 index-linked gilt and 50% in the 2020 index-linked gilt.

15. Timing Adjustment (if (A – (D + P) > 0). The residual payment as at 31 March 2005 would be rolled forward to the final period from Date of Calculation to Date of Payment in line with Bank of England base rates prevailing at the Date of Calculation.

16. If (A – (D + P)) < 0 (i.e. a residual deficit), there would be no payment to the Civil Service and the shortfall would be made good by the DCA over a 10 year period. The annual deficit payments would be calculated as level monetary amounts payable annually in arrears. The first payment would be at the first April after the valuation of the residual liabilities is agreed.

17. The residual deficit would be converted to a stream of 10 equal payments using the nominal redemption yield prevailing on the 10 year conventional gilt yield under FTSE Actuaries Index at the Date of Calculation.

18. The calculations would be carried out by the Fund Actuary and verified by an actuary on behalf of DCA.

19. All payments would be made in cash.

20. DCA and the Fund agree to use their best endeavours to complete the bulk transfer by 31 March 2006 or at the earliest date thereafter if that date is not achievable.

Appendix 1

Annex A – List of Affected Funds

LGPS Funds associated with the following MCCs

Avon & Somerset	Lincolnshire
Bedfordshire	Merseyside
Cambridgeshire	Norfolk
Cheshire	North Wales (Gwynedd)
Cleveland	North Yorkshire
Cumbria	Northamptonshire
Derbyshire	Northumbria
Devon & Cornwall	Nottinghamshire
Dorset	South Wales
Durham	South Yorkshire
Dyfed Powys	Staffordshire
Essex	Suffolk
Gloucestershire	Surrey
Greater Manchester (Tameside MBC)	Sussex (East Sussex Pension Fund)
Gwent	Thames Valley
Hampshire & Isle of Wight	Warwickshire
Hertfordshire	West Mercia
Humberside	West Midlands
Kent	West Yorkshire
Lancashire	Wiltshire
Leicestershire	

Annex B – Assumed Proportions Married at Date of Death

	Proportion married	
Age nearest	Males	Females
16	0%	0%
17	0%	0%
18	0%	0%
19	0%	0%
20	2%	4%
21	3%	5%
22	4%	6%
23	7%	10%
24	9%	15%
25	11%	19%
26	13%	23%
27	16%	28%
28	21%	33%
29	26%	38%
30	32%	43%
31	37%	48%
32	42%	53%
33	45%	54%
34	47%	56%
35	50%	58%
36	52%	60%
37	55%	62%
38	58%	64%
39	60%	66%
40	62%	67%
41	63%	68%
42	65%	69%
43	66%	69%
44	67%	70%
45	69%	71%
46	70%	71%
47	71%	72%
48	72%	73%
49	74%	73%
50	75%	74%
51	76%	75%
52	78%	75%
53	79%	76%
54	80%	76%
55	81%	76%
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72	78%	70%
73	78%	69%
74	77%	67%
75	77%	66%
76	76%	64%
77	75%	62%
78	75%	60%
79	74%	58%
80	72%	55%
81	71%	53%
82	70%	50%
83	68%	46%
84	66%	43%
85	64%	40%
86	62%	36%
87	59%	32%
88	57%	29%
89	54%	25%
90	51%	22%
91	47%	18%
92	44%	15%
93	40%	12%
94	37%	10%
95	33%	8%
96	29%	6%
97	25%	4%
98	22%	3%
99	18%	2%
100	15%	1%
101	12%	1%
102	10%	1%
103	7%	0%
104	5%	0%
105	4%	0%
106	3%	0%
107	2%	0%
108	1%	0%
109	1%	0%
110	0%	0%

Appendix 2

Transfer Process and Outline Timetable

Process	Date
Agreement of bulk transfer principles	
Joint actuaries letter issued to local authorities	23rd May 2005
Local authorities return signed letter	30th June 2005
Staff Options exercise	
LGPS administrators provide pensionable service history, Rule of 85 details etc	30th June 2005
DWP, as pensions administrator to DCA, complete pensions options calculations for each member of staff	31st August
Transfer options letters issued to staff	1st September
Staff options exercise ends	1st December, 2005
Bulk Transfer	
Fund Actuaries complete calculations	31st January, 2006
DCA Actuaries verify calculations	31st March, 2006
Bulk transfer completed – funds move as agreed	31st March, 2006

Annex 2

Communities and Local Government		www.communities.gov.uk community, opportunity, prosperity

7 September 2010

Mr Alan Piper Pensions Specialist Manager London Pension Fund Authority Dexter House 2 Royal Mint Court London EC3N 4LP	Our Ref: LGR 136/8/4 Your Ref:

Dear Alan,

LGPS : Government Actuary's Department Guidance : Trivial Commutation

Thank you for your e-mails of 19 May and 3 August on GAD's Trivial Commutation guidance ["2010 guidance"] dated 26 March 2010. Having been in contact with GAD it is felt that the following comments should answer your concerns.

1. You have correctly identified that the methodology for commuting a single person's benefits changed between the previous guidance dated 21 February 2008 ["2008 guidance"] and the 2010 guidance.

   For a single person, only Table A in the 2008 guidance was used to value the capitalised lump-sum because this table included an allowance for a contingent pension. However, the calculation under the 2010 guidance requires the use of both tables A and B, with Table A (which no longer includes an allowance for a single person's contingent pension) being applied to the level of the member's pension and Table B to the member's contingent pension regardless of their marital status.

   Therefore, the text above the table in Section 9 of the 2010 guidance is incorrect and should be similar to that in Section 8, ie it should read "Capital value of a contingent adult dependant's annual pension of £1 for a female member". However, this is unlikely to lead to incorrect calculations being carried out since the main text of the guidance explicitly states that the factors in Table B should be applied irrespective of the member's marital/partnered status.

2. You are also concerned that the amount of a single person's contingent pension could depend in some cases on whether the member is assumed to enter into a marriage or civil partnership or nominates a partner. Paragraph 2.17 of the 2010 guidance was intended to convey that where there is

Department for Communities and Local Government Local Government and Firefighters Pensions Schemes Division	Tel 020 7944 6018 Fax 020 7944 6019 Email email :

potential contingent cover, then the highest contingent pension amount should be used. For example, where a single male member had service before and after April 1988, then all service should count towards a contingent survivor's pension, even though the survivor's pension would be lower if the member entered into a civil partnership or nominated a partner. However, for a married or partnered member, Table B must apply to the level of contingent pension that reflects their current status, with service before April 1988 being included or excluded as appropriate.

Finally, the intention has always been that the latest version of the Trivial commutation guidance should be used when commuting trivial pensions, which includes pension rights coming within current definition of trivial accruing under previous regulations. If there were to be an exceptional case of someone being better off under the old provisions then the capacity to opt out of the change and use earlier guidance would be open. Were such a case to arise it would have to be treated as if dealt with before the current guidance came into effect.

Yours sincerely,

Andy Lankester

A J Lankester
Workforce Pay and Pensions