



Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 108 – October 2013

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

Please contact Mary Lambe with any comments on the contents of this Bulletin or with suggestions for other items that might be included in future Bulletins. [LGPC contacts](#) can be found at the end of this Bulletin.

This month's [Bits and Pieces](#) includes [LGPC Circulars](#) and updates to the [Timeline Regulation's website](#).

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LGPS 2014

LGPS 2014: Communications

Terminology Document

The Communications Working Group and the sub-groups tasked with developing communication to deliver the LGPS 2014 in conjunction with the Local Government Pension Committee (LGPC) secretariat have created a 'Terminology Document' to help communicate the changes to the Scheme. In particular a number of new terms are required to explain the new scheme from 1 April 2014. By outlining agreed ways of communicating these terms it's hoped that it will assist scheme managers (i.e. administering authorities) and other LGPS stakeholders in communicating a cohesive and consistent message relating to LGPS 2014 to all stakeholders including scheme members. To read the Terminology Document please visit the [LGA's website](#). The 'Terminology Document' will be updated as necessary to reflect any changes required when the Transitional Provisions Regulations are issued.

Branding Guidelines

As part of the changes to the LGPS from April 2014 a new series of logos have been developed, replacing previous LGPS logos.

The aim is that these new logos will help differentiate the new career average scheme from April 2014 from the final salary scheme and also solidify the LGPS brand going forward. The logos should also assist with the identification the new scheme in leaflets/booklets and other publications, including any online presence. A separate logo is also provided to represent the LGPS pre 1 April 2014. To read the Branding Guidelines please visit the [LGA's website](#).

LGPS 2014: SCON number

DCLG have informed the LGA of recent confirmation received from HM Treasury/HMRC stating that schemes made under the Public Service Pensions Act 2013 including the new Local Government Pension Scheme from April 2014 will retain their existing 'Scheme Contracted-Out Number' (SCON).

News and Updates

Call for Evidence

The joint Department for Communities and Local Government (DCLG) and Local Government Association (LGA) '[Call for Evidence on the future structure of the Local Government Pension Scheme](#)' closed for submissions on the 27 September 2013.

The LGA's response to the Call for Evidence is available on the [LGA's website](#) and is accompanied by a report entitled '[Do Larger Funds Perform Better](#)' produced by State Street Investment Analytics and jointly funded by the LGA with Bradford and Tameside MDCs.

Work is now underway by both DCLG and the LGA to review the 138 responses to the Call for Evidence. In addition, since the Call for Evidence closed, DCLG have confirmed in a press release that they are "moving forward with pension fund consolidation". They went on to confirm that "the government will now commission an external organisation, such as a bank, actuarial firm or think tank, to develop specific advice on the potential for new savings

and greater public accountability through increased pension fund collaboration.” To read the press release in full please visit [DCLG’s website](#).

In response to this press release the newly formed Shadow Advisory Board issued a statement outlining their role in the call for evidence process. To read this statement from the Board please visit the [Shadow Board’s website](#). It is expected that, later this year, following the work to review the Call for Evidence responses that the Shadow Advisory Board will make recommendations to the Minister.

Pensions and Fair Deal

New [guidance on the Fair Deal policy](#) was published by the Government on 7 October 2013. The guidance implements the reform of the Fair Deal policy to allow staff compulsorily transferred out of the public sector to remain in a public service pension scheme. In addition to the guidance, the Government’s [response to the consultation](#) on the application of the policy to staff that have already been transferred out under Fair Deal has also been published.

In terms of what the new guidance means for local authorities, the main point to note is the new Fair Deal policy states that:

“1.7 This guidance applies directly to central government departments, agencies, the NHS, maintained schools⁸ (including academies) and any other parts of the public sector under the control of Government ministers where staff are eligible to be members of a public service pension scheme.⁹ It does not apply to best value authorities (listed in section 1 of the Local Government Act 1999) but alternative arrangements exist in respect of those bodies. The Local Government Act 2003 enables the Secretary of State to issue directions to best value authorities in England and Wales concerning how pension matters will be dealt with in the contracting out of services. In 2007 the Best Value Authorities Staff Transfers (Pensions) Direction 2007 was issued to best value authorities in England and Welsh fire authorities.¹⁰ The Department for Communities and Local Government (DCLG) will consider what is needed in respect of directions or other arrangements to achieve the principles of new Fair Deal in local government.

Footnotes:

8. Except and to the extent that a direction issued under sections 101 and 102 of the Local Government Act 2003, or other arrangements put in place to meet the principles of this guidance, apply to a school which is maintained by a best value authority.

9. “Public service pension scheme” has the same meaning in this guidance as in section 1(1) of the Pension Schemes Act 1993.

10. Other public sector bodies participating in the Local Government Pension Scheme may however be subject to this guidance.”

It should be noted that the reference in paragraph 1.7 of the new Fair Deal policy to “Welsh fire authorities” is an inadvertent error which we have reported to HM Treasury for correction. It should refer to “Welsh police authorities”.

The net result is that, currently, where a best value authority in England (or police authority in Wales) enters into a contract for the provision of services, which immediately before the contract was entered into were provided by its employees, the Best Value Authorities Staff Transfers (Pensions) Direction 2007 (the Direction) will still apply to the employees whose contract of employment transfers from the authority under TUPE to the contractor, rather

than the new Fair Deal applying. Under the Direction, the contractor must (for contracts let on or after 1 October 2007) provide the transferred employees who are in (or who are eligible to be in) the LGPS with continued access to the LGPS or access to a broadly comparable or better pension scheme, and this protection carries on for those originally transferred staff at each subsequent TUPE transfer.

For contracts first let before 1 October 2007, where the contract is re-let on or after 1 October 2007, the original transferring staff (i.e. those who were transferred from the local authority when the contract was first let) must be offered membership of a scheme that is at least broadly comparable to the scheme they were in prior to the re-let.

In respect of schools, it should be noted that new Fair Deal will apply to schools where the employer is not a best value authority. Therefore it will directly apply to employees of academies (including free schools) and also to employees of foundation schools, foundation special schools and voluntary aided schools as, although such schools are maintained schools, the staff in those schools are employees of the governing body of the school, not the local authority. Academies, foundation schools, foundation special schools and voluntary aided schools should, therefore, make sure they are conversant with the requirements of the new Fair Deal policy. Employees in a maintained community school, maintained community special school, maintained nursery school or maintained voluntary controlled school are employees of a local authority, and so remain covered by the Direction, rather than new Fair Deal.

In respect of Police and Crime Commissioners it should be noted that whilst they aren't covered by 'the Direction' (nor is a Chief Constable within the meaning of section 2 of the Police Reform and Social Responsibility Act 2011) the position regarding both these employers and the new Fair Deal policy is less clear. The LGPC secretariat has sought clarification from HM Treasury on this matter. The new Fair Deal guidance covers "any other parts of the public sector under the control of Government ministers where staff are eligible to be members of a public service pension scheme. We have asked HM Treasury whether uniformed and / or non-uniformed staff are "under the control of Government ministers" and therefore subject to the new Fair Deal guidance.

As stated in the extract above from the new Fair Deal document, DCLG will consider, working with the LGA and other business partners, what is needed in respect of directions or other arrangements to achieve the principles of the new Fair Deal in local government. Any developments on this and the LGPC's query regarding Police and Crime Commissioners will be reported in a future [Bulletin](#).

DCLG Consultation – Pooling arrangements for Academies within the LGPS

On the 7 October 2013 DCLG issued a six week consultation which sets out to seek views on potential pooling arrangements within the LGPS regulations for Academies and Local Authorities. The consultation includes rationale to introduce Academy and Local Authority pooling arrangements with the following options for possible inclusion in scheme regulations:

- requiring that pension arrangements for an Academy, or several Academies, and the ceding local authority are pooled together should the Academy want this; or
- providing that the Academy, or several Academies, and the ceding local authority should be pooled together without any choice between the parties; or
- providing that the schools sector – Academies and local authority maintained schools – are pooled together.
- providing pooling arrangements for Academies only.

To read the consultation document in full please visit [DCLG's website](#). The closing date for responses to this consultation is the 15 November 2013.

Updated Academy Arrangements and the LGPS FAQ document

On the 7 October DCLG issued edition 3 of 'Academy arrangements and the LGPS', an FAQ document developed jointly by the Department for Education and DCLG to help better understand the relationship between Academies and the LGPS. This edition replaces the previous version (edition 2). To read the FAQ document please visit the [Timeline Regulations website](#).

Pension liberation

High Court decision

A High Court pension liberation test case involving the Pensions Regulator (tPR) and alleged pension liberation schemes began in July but was deferred until October. The High Court was asked to rule on the legal status of nine suspected pension liberation schemes as tPR required guidance as to the status of the schemes in order to understand whether these schemes were actually occupational pension schemes within the definition of the Pensions Act 1993.

The case was heard on 21 October 2013 when a judge ruled that the nine schemes in question meet the statutory definition of occupational pension schemes, which gives the Pensions Regulator (tPR) power to investigate and appoint independent trustees. A response from tPR can be found on [tPR's website](#).

HMRC changes

On 21 October 2013 HMRC announced changes to the pension schemes registration process to combat pension liberation. HMRC has also changed the way they respond to requests from transferring scheme administrators for confirmation of the registration status of the receiving scheme.

More information about the changes can be found on the HMRC website where you can find [a pension liberation news article](#) which links though to further articles and guidance including a joint update with tPR and Department of Work and Pensions on the work they are doing to combat pension liberation and a factsheet designed to help explain the tax consequences of pension liberation to individuals.

The Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2013

On 14 October 2013, regulations relating to 'qualifying recognised overseas pension schemes' (QROPS) were introduced to strengthen the QROPS regime. They include an increase in the specific information a QROPS must provide and a requirement that a QROPS must re-notify HMRC every five years that it meets the QROPS criteria. The updated forms used by QROPS administrators to reflect the changes made by the regulations can be found on [HMRC's website](#).

Police and Crime Commissioners

In [Bulletin 94](#) we outlined that the LGPS (Administration) Regulations 2008 were amended to provide for both the Police and Crime Commissioner (PCC) and the Chief Constables to be employers for the purpose of the LGPS from 22 November 2012.

Recently the LGPC secretariat has received queries from funds regarding the transfer of staff to the PCC.

The first of these queries relates to the treatment of those employees who at the point of transfer to the PCC were not members of the LGPS as they had previously elected to opt-out of the scheme. At each transfer an employee is commencing employment with a new employer, in this case the PCC, and therefore should be contractually enrolled into the scheme at the point of transfer (with the right to again opt-out of the scheme). The same question arises when staff are transferred to an academy from a local authority (in a local authority maintained school) and the advice provided in such circumstances ([see question 2 of the Academy FAQ document](#)) confirms the position outlined above as does paragraph 2.3 of the new [guidance on the Fair Deal policy](#).

The second query relates to the 12 month time limit for transfers in and whether with the change of employer to the PCC resets the clock for the 12 month deadline. The view of the LGPC secretariat is that a transfer in should not be permitted in the circumstances where a TUPE transfer has occurred. This stems from the position applied to Club scheme transfers where the Club rules state that:

*“4.1 An individual must apply for a Club transfer in writing to the receiving scheme within 12 months of becoming eligible to join, or, subject to (i) below, re-join the scheme. (A request for an estimate of a transfer value should not be regarded as an application to transfer benefits.) The application should be copied to the previous scheme. Applications should not be accepted where either:
(i) an individual resigns from employment and rejoins the same scheme within 6 months, except during any period after rejoining which falls within 12 months of first becoming eligible to join the scheme; or
(ii) an individual has joined the Club scheme from another Club scheme as a consequence of a compulsory transfer of employment, or of pension scheme (see 2.6).”*

Early retirement and redundancy compensation survey 2013

The 2013 early retirement and redundancy compensation surveys for the LGPS and the Teachers' Pension Scheme have been completed and a summary report of each survey is now available [on the LGA website](#).

Occupational Pension Schemes Survey 2012

On 26 September the Office for National Statistics published its annual [Occupational Pension Schemes Survey 2012](#).

Intermediaries rise to auto enrolment challenge

On 10 September the Pensions Regulator published a report entitled '[Intermediaries' awareness, understanding and activity in relation to workplace pension reforms](#)', which shows that 96% of payroll administrators now expect to have some involvement with auto enrolment.

SF3 Statistics 2012/13 released for England and Wales

DCLG issued the latest statistics relating to the LGPS for England and Wales on the 23 October 2013. To view the results in full please click on the link below:

- [LGPS SF3 statistics for England 2012/13](#)
- [LGPS SF3 statistics for Wales 2012/13](#)

Bits and Pieces

Circulars

[Circular 274](#) has been issued to advise administering authorities and employers participating in the LGPS of a number of workshops to be run at various locations across England and Wales in January and February 2014. These events are solely aimed at administering authority staff, particularly those involved in the day-to-day administration of the LGPS. So far these events have proved extremely popular with most places now booked. The LGPC secretariat will make a decision after the last event has taken place (6 February 2014) having analysed the waiting lists as to whether or not to run two large Seminar events but, at this stage, due to work pressures and time restraints, we cannot guarantee this. To read [Circular 274](#) in full please visit the LGA's website.

Timeline Regulations website

The following documents have been added to the [Statutory Guidance page](#) of the Timeline Regulations website in October:

- Revised Fair Deal Guidance (issued 7 October 2013)
- Academies FAQ Document (Edition 3) (issued 7 October 2013)
- Academies and LGPS Liabilities - Written Ministerial Statement 2 July 2013
- Academies and LGPS Liabilities - Parliamentary Minute 2 July 2013

Legislation

United Kingdom

SI Reference	Title
2013/2734	The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013
2013/2556	The Automatic Enrolment (Miscellaneous Amendments) Regulations 2013
2013/2328	The Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2013

England and Wales

2013/2356	The Local Government Pension Scheme Regulations 2013
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Useful Links

[LGA Pensions page](#)

[LGPS members' website](#)

[LGPS 2014 members' website](#)

[LGPS Advisory Board website](#)

[LGPS 2014 Regulations and Guidance 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.

[The Timeline Regulations](#)

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Distribution sheet

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