



Local Government Pensions Committee  
Secretary, Jeff Houston

## **LGPC Bulletin 114 – April 2014**

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.

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## LGPS 2014

### Update to article on Pensions for Councillors

In [Bulletin 113](#) an update on pensions for Councillors in England was included. Since its publication the LGPC secretariat received a query which has resulted in a change to the answer supplied in the second question of this article. The amendment to question 2 is detailed below and the amended text is highlighted in red. All other items in the original article in [Bulletin 113](#) remain the same.

#### **2. When does a councillor's term of office end?**

*Section 7 of the Local Government Act 1972 provides that the term of office shall end on the fourth day after the ordinary day of election of councillors. **New terms of office commence on the same day as the old terms end.***

### Secretary of State Guidance

In addition to the Secretary of State Guidance issued in March 2014 (see [Bulletin 113](#) for details) two further items of guidance in respect of 'Pension Debits' and 'Early Retirements' were issued in April 2014. All Secretary of State Guidance is available from the [LGPS regulations website](#).

### Administration and Employer Guides

Following the recent release of Secretary of State Guidance a number of updates have been made to papers and guides produced by the LGPC secretariat. In April updates have been made to the following administration papers:

- 85 year rule paper (now version 1.3)
- underpin paper (now version 1.2)
- revaluation paper (now version 1.2)
- discretion policies paper (now version 1.2)

In addition a new paper on the topic of additional pension contributions (APC) guidance was released in April. All administration papers can be found on the [LGPS regulations website](#).

The [HR Guide](#) and [Payroll Guide](#) (now both version 3) were also updated in April as well as updates to the HR and Payroll frequently asked questions section of the [LGPS regulations website](#).

In addition the LGPC secretariat issued a copy of a correction list (as well as updated versions) which has been issued to the Department for Communities and Local Government (DCLG) to Pension Managers and Client Managers in England and Wales. This contains a list of the items which, in the view of the Secretariat, are worthy of further consideration and possible amendment to the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014. Should DCLG consider any worthy of a possible amendment to the LGPS Regulations 2013 and / or the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 a full consultation on draft amendment regulations would follow in due course. As and when this list is updated a further copy will be shared with Pension Managers and Client Managers.

## Employee Communications

In April a promotional leaflet designed to be used for new joiners to the scheme post April 2014 has been issued, this is available on the [LGPS regulations website](#).

The Communication Plan for LGPS 2014 has been updated to reflect the various communications released over recent months as well as updated visitor numbers to the [LGPS 2014 website](#). To view a tracked changes version and the updated version 6 please visit the [LGA's website](#).

## Pensions Increase (PI) and mixture of pre and post April 2014 retirement benefits

The LGPC secretariat would like to bring to the attention of administering authorities the following information to ensure funds have considered the implications for their payroll and pensions administration systems, particularly in respect of the way pensions increase is applied.

The scenario arises where a member retires with a mixture of both final salary pension benefits built up to 31 March 2014 and a career average pension from 1 April 2014 where the final pay used for the final salary pension is not the last year's pay (e.g. it is one of the previous 2 years' pay of the average of 3 consecutive years pay ending on a 31<sup>st</sup> March where Benefits Regulation 10 applies or using a Certificate of Protection where this was awarded before 31 March 2008 and is still in force). In such cases the pre 14 pension will have a PI date equal to the day following the last day of the final pay period used for the final pay calculation and the career average pension will have a PI date equal to the day following the last day of active membership.

Administering authorities will need to ensure that the programmes they use for pensions increase (on both payroll and pension administration software) are able to deal with this.

In addition this scenario could also occur where a scheme member elects not to permit automatic aggregation of previous LGPS benefits where they have a period of pre 1 April 2014 membership in the final salary scheme (in addition to their career average pension from April 2014) and do not have a continuous break of more than 5 years in active membership of a public service pension scheme when they start their next employment. For example a member has deferred benefits from their first employment (employment A) which includes pre 1 April 2014 final salary pension as well as a career average pension from 1 April 2014 to the date that employment ceased.

The member also has a second employment (employment B) which, given the ongoing salary link, will provide the final pay for the earlier employment A benefits (even though the member has elected to retain separate benefits). Let's also assume the employments are in separate LGPS funds.

This deferred benefit for employment A will be recalculated (based on the secretariats current understanding - but see the final paragraph below) based on the final pay from employment B. The final salary pension for that deferred benefit (employment A) will have a PI date equal to the day following the last day of the final pay period in employment B. The pension in the member's career average pension account in employment A will have a PI date equal to the day following the last day of active membership in employment A.

Thus, when the deferred pension is brought into payment by fund A, there will have to be separate pensions held on the payroll system – the final salary pension with a PI date of X (from employment B) and the pension from the member's career average pension account

with a different PI date of Y (end of employment A). Any GMP will, of course be increased on 6 April and not on the first Monday on or after 6 April each year.

It is worth noting that the LGPC secretariat is producing a paper on aggregation for the next Technical Group meeting, exploring the issue of an ongoing final salary link in greater detail and in the meantime the secretariat also intends to seek written confirmation from HM Treasury that it is the policy intention that there should be an ongoing final salary link.

## Shadow Scheme Advisory Board

### Communications Update

The Shadow Scheme Advisory Board in England and Wales issued the first of its regular communication updates to administering authorities in April. To read this update in full, visit the [Shadow Board's website](#).

### Investment Data Survey

The Shadow Board issued an investment data survey to administering authorities in England and Wales in April 2014. The background to this survey stems from the Call for Evidence (CfE) on structural reform in the LGPS. In responses to the CfE there was an indication that the availability of data would be fundamental in ensuring that any future reforms would be meaningful and evidence based. 94 of the 133 responses submitted raised concerns as to the lack of available, comparable data which would be needed to guide decision making.

Alongside this the Shadow Board has committed to the annual publication of a Scheme-wide annual report. Work on the 2012/13 scheme annual report is well under way and the Board are on track for publication of this report in the third quarter of 2014. However, in ensuring that the Scheme annual report is as useful and as consistently reported as possible, the lack of a comparable baseline data has again been noted.

The baseline data gained through this survey is expected to have two potential uses. Firstly, to inform any responses made by the LGPC secretariat or the Shadow Board to the forthcoming consultation on structural reform, and secondly, where the data provided gives additional, relevant insight in to the Scheme, to feed into the 2012/13 Scheme annual report. The data will not be published in a way which could identify individual funds or investment companies.

The survey contains four different areas:

1. Authority Subsidiary Information,
2. Authority Managers,
3. Manager Turnover, and
4. Respondent Details.

In addition, on the 22 April 2014 the LGPC secretariat issued additional guidance and confirmation that funds and investment management companies can be assured that commercially sensitive information will not be put into the public domain.

Responses to the survey should be sent by email to both Con Hargrave ([cornelius.hargrave@local.gov.uk](mailto:cornelius.hargrave@local.gov.uk)) and Liam Robson ([liam.robson@local.gov.uk](mailto:liam.robson@local.gov.uk)) by 30 May 2014.

## **Queen's Counsel Advice - Fiduciary Duty with regard to investment of LGPS funds**

The Shadow Board released details of Queen's Counsels (QC) advice in respect of fiduciary duty and investments of LGPS funds. The advice sought by the Local Government Association (LGA) on behalf of the Shadow Board was provided by Nigel Giffin QC. The questions posed included:

- Does an LGPS administering authority owe a fiduciary duty and if so to whom it is owed?
- How should the wider functions, aims or objectives of the administering authority influence the discharge of its LGPS investment duties?

To read the advice in full visit the [Shadow Board's website](#).

## **Other News Items**

### **Impact on the LGPS of increased trivial commutation and small pot payment limits**

In [Bulletin 113](#) the LGPC secretariat included a detailed article on the impact of the Chancellor of the Exchequer's announcement as part of [Budget 2014](#), outlining an increase in the trivial commutation limit from £18,000 to £30,000 as well as an increase to the small pot payments limit from £2,000 to £10,000. The increases took effect from the 27 March 2014 and impacts the LGPS. The secretariat have, since the publication of [Bulletin 113](#), received comments and additional queries from administering authorities. The secretariat is currently reviewing these comments and aims to release updated guidance in the coming weeks to administering authorities.

### **LGPC Training update**

[Circular 279](#) was released in April containing information on forthcoming LGPC 'Understanding Workshops' including 'Death and Survivor Benefits', 'Retirement Benefits' and 'Automatic Enrolment and the LGPS'. Both 'Death and Survivor Benefits' and 'Retirement Benefits' have been well subscribed so far with limited availability remaining. The 'Automatic Enrolment and the LGPS' workshops are running from 12 June to 17 July across various locations in England and Wales. The LGPC secretariat was asked in 2012 to provide a training course on this subject and even though the topic is not specific to the LGPS, we have provided training sessions on this subject over the last two years to meet the demand of those employers approaching their staging dates. Now with medium to smaller employers reaching their staging dates from 2014 many more employers will be embarking on the automatic enrolment experience and given the resources such employers have to allocate to topics such as automatic enrolment we hope the ongoing provision of this course is supported by funds and employers. If you've not already done so the LGPC Secretariat would be grateful if funds could inform their employers due to stage over the coming year that the 'Automatic Enrolment and the LGPS' workshops are taking place and make them aware of the information in [Circular 279](#).

### **LGPC Trustees' Conference**

[Circular 280](#) released this month details the forthcoming 11<sup>th</sup> annual LGPS Trustees' Conference taking place on the 19th and 20th June 2014 in Bournemouth. The conference theme is 'Winning the Game' and delegates can expect to see a strong focus on governance issues, a topic high on the agenda for all funds in advance of changing governance arrangements from April 2015. Details of the speakers and timing of events can be found in the '[Conference Flyer](#)'. Places are still available but bookings must be secured via the LGPC's secure online booking system on the [LGA's website](#).

### **Additional Pension less than GMP update**

It has been highlighted to the LGPC secretariat from an administering authority that there appears to be, at present, an issue with non-auto-generation of AC<GMP notifications where a pensioner has moved abroad. This came to light following a conversation the administering authority had with the National Insurance Contributions Office (NICO) and the secretariat thought it worthwhile to bring this issue to the attention of administering authorities. Where a pensioner moves abroad (i.e. when you receive a notification of a change of address) it might be worthwhile to contact the NICO to check if they are classing this as emigration to a non-reciprocal country because, if so, the administering authority will need to revise the pension in payment. It is our understanding that the NICO continue to issue other AC<GMP notifications but again it may be worthwhile to keep a tab on the volume of RD614s being received in an effort to make sure this is the case.

### **Scottish Employee Guides and Member Website**

This month updates were made to the full (both booklet version and all leaflets), brief and promotional guides for employees in Scotland. The updates reflect the recent SSI 2014/23, the addendum to early retirement reduction factors in Scotland and various annual updates. These updated versions as well as tracked changed version are available on the [LGA's website](#).

In addition these updates have also been made to the content on the member website [www.lgps.org.uk](http://www.lgps.org.uk).

### **Pensions Ombudsman and Pension Liberation**

The Pensions Ombudsman recently issued an update entitled 'Pension Liberation - update 1' outlining their approach to pension liberation cases. The update has been released following a number of complaints received by the Ombudsman from individuals whose transfer request were refused because of suspicions that pension liberation was involved as well as a smaller number where an individual's transfer was completed but where the arrangements were blocked through regulatory action. To read the update in full visit the [Pension Ombudsman's website](#).

### **Automatic Enrolment - First section 89 report**

In April the first section 89 report from the Pensions Regulator (tPR) was issued in respect of non-compliance relating to automatic enrolment. The report details the problems experienced by Dunelm Soft Furnishing Ltd where action was taken by the regulator regarding non-compliance relating to their duties under the Pensions Act 2008. It also details how the regulator assisted the organisation to get back on the right track for automatic enrolment and highlights key lessons which can help other employers avoid non-compliance. To read the report in full visit [tPR's website](#).

### **The Pensions Regulator - Thematic review of record-keeping**

tPR published the findings of their review of recording keeping at the end of March. The report details that the regulator found good practice in the industry across schemes of various types and sizes as well as areas which caused them concern. They go on to confirm that tPR have opened seven cases where they are investigating the findings from this review. Readers will be aware that part of the remit of tPR for public service schemes from April 2015 includes recording keeping (as part of code of practice number 14) and this initial review gives an insight into the work of the regulator in this area. To read the report in full, visit [tPR's website](#).

## State Pension top-up

The Minister for Pensions, Steve Webb MP provided further details in a [Written Ministerial Statement](#) on the new class of voluntary National Insurance contributions - Class 3A - announced in last month's Budget 2014. This new class of National Insurance contributions is designed to allow some current pensioners and those soon to reach State Pension Age to boost their retirement incomes. In addition to this announcement the Department for Work and Pensions (DWP) has issued guidance on this topic entitled 'How to increase your State Pension if you reach State Pension Age between 6 April 2010 and 5 April 2015'. This guidance can be found on the [Government's website](#).

## Legislation

### England and Wales

#### SI Reference Title

- |          |   |
|----------|---|
| 2014/865 | The Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority Order 2014 |
| 2014/863 | The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority Order 2014.             |

### Northern Ireland

#### SR Reference Title

- |         |  |
|---------|--|
| 2014/99 | The Pension Increase (Review) Order (NI) 2014. |
|---------|--|

## 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.

[LGPS Discretions](#) lists all the potential discretions available within the LGPS in 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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