

## **Department for Work and Pensions ('DWP')**

### **Single Fraud Investigation Service ('SFIS')**

#### **Pensions Measures Document**

#### **1. Purpose**

- 1.1. The purpose of this note is to set out the measures DWP proposes to apply in relation to the provision of future pension scheme membership for employees transferring into DWP as part of the SFIS project. These provisions will form the basis of employees' enforceable rights (in the same way as is described in new Fair Deal) and will be appended as Annex C to the Broad Comparability Certificate(s) to be provided by the Government Actuary's Department ('GAD').
- 1.2. At this stage DWP is still working on the arrangements for protecting accrued rights under the pension scheme of the former employer and details will be provided in due course.

#### **2. Addressed to**

- 2.1. All stakeholders

#### **3. Background**

- 3.1. Local Authority welfare Fraud Investigation staff and contractors' staff undertaking that activity on behalf of Local Authorities are transferring employment over the period from 1 July 2014 to 1 March 2016 (inclusive) as part of the SFIS project.
- 3.2. In line with the COSoP guidelines, DWP will protect the pension rights of "eligible transferring staff" by providing such staff with a package of benefits for future service that is "broadly comparable" to that which applied in local government under the relevant Local Government Pension Scheme immediately prior to the transfer of employment to DWP. For this purpose "eligible transferring staff" and "broadly comparable" are as defined below and otherwise described in this document:

##### 3.2.1. "eligible transferring staff" are:

- 3.2.1.1. those staff who were employed by a local authority immediately prior to the transfer to DWP and who were, in that employment, eligible for membership of the LGPS; and
- 3.2.1.2. those staff who were employed by contractors immediately prior to the transfer to DWP, and who were originally compulsorily transferred from a local authority when the contract was first tendered, and who were, in that employment, eligible for

membership of the LGPS or the contractor's broadly comparable scheme; and

3.2.1.3. those staff who were employed by contractors immediately prior to the transfer to DWP, and who despite not having been a part of the original compulsory transfer from a local authority when the contract was first tendered, were still eligible for membership of the LGPS on the day prior to transfer to DWP; and

3.2.1.4. any other staff employed by contractors who qualify for protection as determined by DWP and notified to them.

3.2.2. "broadly comparable benefits will be assessed by following the principles of the Government's Fair Deal policy ([Fair Deal 2013](#)'), taking into account advice from HM Treasury ('HMT') as to the application of those principles, particularly in relation to the flexibility referred to under paragraph A.12 of Fair Deal 2013, in connection with the transfer of employment within the public sector, as explained in this document.

3.3. Other staff are not eligible for the protection outlined above but DWP will treat such staff in the same way as new joiners in offering them membership of an appropriate pension scheme.

3.4. DWP will offer all transferring staff membership of the relevant civil service pension scheme. Prior to 1 April 2015, this will be the Principal Civil Service Pension Scheme ('PCSPS'), but, as with other public service pension schemes, the PCSPS is being reformed and a new scheme (called 'the Civil Service and Others Pension Scheme ('CSOPS')) will come into operation from 1 April 2015 to replace the PCSPS as the scheme for new joiners. In broad terms, this means that staff who transfer to DWP prior to 1 April 2015 will be offered membership of the nuvos section of the PCSPS, but will be moved into the alpha section of the CSOPS on 1 April 2015 (unless they qualify for statutory transitional protection in which case they will remain in the nuvos section of the PCSPS); and staff who transfer to DWP on or after 1 April 2015 will be offered membership of the alpha section of the CSOPS (unless they qualify for statutory transitional protection, in which case they too will be offered membership of the nuvos section of the PCSPS).

## **4. Measures**

### **4.1 Nuvos and alpha**

Nuvos is a section of the PCSPS providing Career Average Revalued Earnings ('CARE') benefits with a normal retirement age of 65. Alpha is a section of the CSOPS and will also provide CARE benefits, but with a normal retirement age equal to the State Pension Age.

### **4.2 Pay Uplift**

In some cases, the offer of membership of the relevant civil service pension scheme, as outlined above, might not on its own provide “broadly comparable” benefits as described in this document. In those cases, DWP will supplement the offer of membership of the relevant pension scheme by additional benefit commitments and/or a compensatory non-pensionable pay uplift. GAD will carry out an assessment for all such staff to check that the package of benefits provided is “broadly comparable” in order to provide a certificate of broad comparability. DWP will provide the additional benefit commitments and/or compensatory non-pensionable pay uplifts that are necessary in order for GAD to provide this certification, based on GAD’s advice.

Pay uplifts, in respect of broad comparability, and any adjustments are subject to tax and national insurance and will be non-pensionable (so pay uplifts will not be subject to pension contribution deductions and will not count for the purpose of benefit calculations in the relevant scheme).

For staff who transfer to DWP prior to 1 April 2015, the pay uplift applicable for the period to 31 March 2015 may be different from that applicable from 1 April 2015 [where staff move from nuvos to alpha]. In all cases, a pay uplift ceases to be payable if the member opts out of the relevant civil service pension scheme. There is no requirement for DWP to re-instate a pay uplift on any subsequent re-joining. Pay uplifts will be expressed as percentages, to be applied to basic salaries. The percentage rate will not normally be re-assessed if a member subsequently increases or reduces his or her working hours, or moves to a role with a lower salary, or just moves into a different contribution band. The percentage rate will be applied to the actual rate of basic salary.

If an employee moves voluntarily to a different post with different terms and conditions, DWP may propose that a pay uplift ceases to be payable. This can only happen where the employee voluntarily agrees that the pay uplift will cease as a consequence of the move.

#### 4.3 Broad Comparability assessment

The broad comparability assessment will be based on the terms of the relevant Local Government Pension Scheme (‘LGPS’), and the civil service pension scheme (PCSPS or CSOPS) that apply at the date of transfer of employment, but allowing for the 2015 reforms (to both the civil service pension scheme and the LGPS in Scotland) and the 2014 reforms (in the case of the LGPS in England and Wales). The assessment will be carried out by GAD based on this document and otherwise in accordance with the terms for assessing broad comparability under Fair Deal 2013, including actuarial assumptions, which apply at the date of transfer of employment.

The broad comparability assessment is carried out as at the date on which employment transfers and any additional commitments and/or pay uplifts are effective from that date.

The benefits payable (including the amount, the eligibility criteria and the qualifying beneficiaries) in certain events under the nuvos section of the PCSPS and under the alpha section of the CSOPS may be different to those payable under the LGPS (or those under the former employer’s pension scheme where that is not the LGPS).

Whilst differences between the PCSPS and the LGPS will be taken into account in assessing the value of benefits for broad comparability, staff should consider, for example, whether the differences in the actual benefits have any impact on their own circumstances or on their financial arrangements. For example, the lump sum on death in service under the relevant civil service scheme will be lower than that available under the LGPS. Further information about the nuvos section of the PCSPS and the alpha section of the CSOPS is available via the [civil service pensions website](#).

4.4 The broad comparability assessment will take account of the move to alpha, where staff who transfer to DWP prior to 1 April 2015 are to be moved from nuvos at 1 April 2015, so no further assessment is required to allow for that

4.5 Differences between the LGPS in England and Wales and the LGPS in Scotland

The LGPS in England and Wales is a CARE scheme in respect of service on or after 1 April 2014 (with accrued benefits before 1 April 2014 continuing to be linked to final salaries for active members). The LGPS in Scotland is a final salary scheme until 31 March 2015 but will provide CARE benefits from 1 April 2015 (with accrued benefits before 1 April 2015 continuing to be linked to final salaries for active members).

4.6 Transitional protection and 'Rule of 85'

The PCSPS and the CSOPS will not be able to accommodate, or to fully accommodate, the transitional protection available under the LGPS ('final salary underpin protection') or the critical retirement age ('CRA') under the 'Rule of 85' ('CRA protection'); and DWP is unable to replicate these protections identically.

Instead, DWP has agreed to provide additional benefit commitments for staff with such protections under the LGPS, as described below. It is intended that the effect of these commitments is for DWP to provide relevant staff with, as far as practicable, the same protections, as under the LGPS.

Additional benefits, where applicable, will only be available at the same time and in the same circumstances as the respective final salary underpin protection or CRA protection applies under the LGPS.

The additional benefit commitments for staff with CRA protection under the LGPS will be met by DWP making arrangements with the PCSPS or the CSOPS, as appropriate, to augment the member's benefit. This will apply in cases where the PCSPS or the CSOPS applies an early retirement reduction which is higher than that (if any) which would apply if the reduction were calculated in a manner consistent with the application of CRA protection in the LGPS. The augmentation will offset the effect of such higher reduction.

The additional benefit commitments for staff with final salary underpin protection under the LGPS will be met by DWP making arrangements with the PCSPS or the CSOPS, as appropriate, to augment the member's benefit. This will apply if the total benefits under the PCSPS and the CSOPS arising from service with DWP are lower than the notional benefits which would have accrued over the same period in the 60ths accrual

final salary linked service component of the nuvos section of the PCSPS. The augmentation will bring the member's benefit up to the level of the notional benefits.

The cost of any augmentation will be met by DWP at the relevant time. The ability for DWP to do this through the relevant scheme may be affected by legislative or other considerations at the time. If for some reason it is not possible to make such an augmentation, DWP may instead offer the member such alternative compensation as may be agreed with the member to discharge the commitment.

GAD will take these additional benefit commitments into account in the assessment, on the basis that these additional benefit commitments are broadly comparable to the final salary underpin and CRA protections available under the LGPS, following advice to DWP from HMT.

4.7 DWP will ensure that, for all eligible transferring staff, the pensionable pay in the PCSPS and the CSOPS in future will include all those elements of remuneration that were pensionable under the LGPS immediately prior to the date of transfer of employment. This is to meet the broad comparability requirements of Fair Deal. For the avoidance of doubt, any pay uplifts payable as envisaged by these measures will not be included within the definition of pensionable pay.

#### 4.8 Redundancy and Injury Benefits

The broad comparability assessment does not cover redundancy or injury benefits.

#### 4.9 Shared-cost AVC arrangements

Under the LGPS, some members have shared-cost AVC arrangements, or contractual rights to participate in shared-cost AVC arrangements, under which the member's employer is required to contribute. There are likely to be similar provisions for members in broadly comparable schemes which are operated by contractors for contractor staff.

In relation to any such individuals who are eligible transferring staff, DWP will contribute to a shared-cost AVC arrangement on the member's behalf at a rate not less than the rate being paid by the former employer immediately before the date of transfer of the individual's employment. Where contributions have not yet commenced, DWP will contribute at the rate that the member had a right to require the former employer to pay. These contributions will be payable on terms as close as practicable to the shared-cost AVC arrangement operated by the former employer.

#### 4.10 Qualifying Service

The relevant civil service pension scheme will recognise qualifying service of eligible transferring staff in the LGPS or the contractor's broadly comparable scheme, where appropriate, as qualifying service for the purpose of determining entitlement to, or level of, benefits in the civil service pension scheme for eligible transferring staff and irrespective of whether or not the member transfers their accrued rights from the LGPS (or from the contractor's broadly comparable scheme, where appropriate).

#### 4.11 Benefit Cap

There is a benefit cap in the nuvos section of the PCSPS. This cap will not apply to eligible transferring staff.

#### 4.12 50:50 option

Under the LGPS in England & Wales and the LGPS in Scotland (post-2015), members may choose a '50:50 option' under which the member pays half the standard contribution rate for half the standard benefit. There is no similar option in the civil service pension schemes.

As this is a member option, DWP has determined on the advice of HMT and in line with paragraph A.12.10 of Fair Deal 2013 that the option does not need to be considered in the broad comparability assessment. This option will not be available after employment transfers to DWP.

Where eligible transferring staff have exercised the 50:50 option under the LGPS, the broad comparability assessment will treat such employees as not having exercised the option.

#### 4.13 Subsequent compulsory transfer of employees and successor organisations

Where there is a subsequent compulsory transfer of some or all of the eligible transferring staff to another organisation, or another organisation succeeds DWP in relation to some or all of those staff, DWP will use all reasonable endeavours to comply with any relevant COSoP in seeking to ensure that appropriate arrangements are put in place by the receiving /successor organisation to protect pensions in a manner consistent with this document and that the receiving /successor organisation, where necessary or applicable, takes over the DWP's responsibilities for additional benefit commitments and compensatory pay uplifts for those employees from the date the other organisation succeeds the DWP.

This does not affect DWP's commitments in relation to rights which have been accrued by employees prior to that date. However, if the employee elects to transfer such rights from the relevant civil service pension scheme, whether to a pension scheme of the successor organisation or otherwise, DWP will use all reasonable endeavours to make arrangements for such transfers to be enhanced to reflect the value of its additional commitments unless a successor organisation (or its pension scheme) accepts responsibility for those commitments.

If despite all reasonable endeavours, DWP cannot comply with one or both of the requirements above, DWP will make a payment to the individual as compensation for the non-provision or loss of the additional commitments and/or the compensatory pay uplifts, calculated where necessary by an actuary.

## 5 Disclaimer

5.1. The DWP will provide the measures as outlined in this document.

- 5.2 However, the DWP reserves the right in future to make proposals to alter, delete or otherwise vary any additional benefit commitments for which it is responsible or any compensatory pay uplift after the transfer of employment has occurred.
- 5.3 Such proposals shall be the subject of negotiation with a view to reaching agreement and bargaining with trade unions before any alteration, deletion or other variation can be made.
- 5.4 This will not affect any rights which individuals have accrued up to the date of any such change.
- 5.5 All proposed changes (and any agreed changes following negotiation and bargaining) will be subject to independent assessment and certification by the GAD to ensure that 'Broad Comparability' is maintained.