



Local Government Pensions Committee  
Secretary, Jeff Houston

## **LGPC Bulletin 122 – January 2015**

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 include information on [LGPC Circulars](#).

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## LGPS England and Wales

### LGPC Response to consultation on amending regulations for LGPS 2014

The LGPC Secretariat has responded to DCLG's consultation on the [draft LGPS \(Amendment\) Regulations 2015](#) and the response can be obtained from the [LGPS Regulations website](#).

The response was shared with LGPS Pension Funds in advance of the closing date 30 January; in particular, attention was drawn to the section which sought an amendment to the LGPS Regulations 2013 to move away from the current position of automatic aggregation as well as seeking an amendment to mirror regulation 16(6) of the LGPS (Administration) Regulations 2008 (TUPE transfers) and an amendment to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 for those members who left prior to 1 April 2014 and re-join the Scheme on or after 1 April 2014 and who have not had a continuous break in active membership of a public service pension scheme of more than 5 years. Further information is included in the articles below.

### LGPS Aggregation and the ongoing final salary link

#### Ongoing Final Salary Link and Aggregation Leaflet

The position relating to the treatment of an ongoing final salary link where an active member retains separate deferred benefits in another LGPS Pension Fund was clarified in a letter from DCLG on 23 January 2015. In that letter DCLG indicated that where an active member of the LGPS in England or Wales does **not** aggregate membership from an LGPS deferred benefit in England or Wales which includes pre 1 April 2014 final salary membership and does **not** have a continuous break of more than 5 years in active membership of a public service pension scheme (as defined in section 1 of the Public Service Pensions Act 2013), the unaggregated deferred benefit **does not** retain an ongoing final salary link.

This removes a number of administrative complexities which could have prevailed had an ongoing final salary link existed for separately retained deferred benefits in another LGPS Pension Fund.

Obviously where an active member's earlier deferred benefits are combined with their new employment that member enjoys the benefit of using their final salary in their new employment to calculate their pre April 2014 final salary benefits when they leave the Scheme.

This confirmation has allowed the LGPC Secretariat to finalise the **aggregation leaflet** to reflect this position and that leaflet is now available on the [LGPS Regulations website](#).

Given the change of position on the ongoing final salary link, in what cases will LGPS Pension Funds need to ask employers for details of final pay? Final pay details (2008 definition) will be required as part of the year end information process and on leaving the scheme for:

- a) all members who were active members in the relevant Pension Fund before 1 April 2014;
- b) those members who aggregate deferred benefits in the LGPS in England and Wales where those deferred benefits included pre 1 April 2014 membership which continues to count as final salary scheme membership following aggregation;

- c) those members who transfer benefits to the LGPS from another public service pension scheme (as defined in section 1 of the Public Service Pensions Act 2013) who have **not** had a continuous break of more than 5 years in active membership of a public service pension scheme (where the transfer purchases pre 1 April 2014 final salary membership).

Those pre April 2014 final salary benefits will be worked out using a member's final pay in their new employment.

It may also be that an underpin calculation will need to be performed if the member was:

- an active member of a public service pension scheme immediately before 1 April 2012 (regardless of whether or not a transfer is made from that scheme to the LGPS), and
- within 10 years of their Normal Pension Age under that public service pension scheme on 1 April 2012 and would have been within 10 years of their Normal Pension Age under the LGPS had they been in the LGPS on 1 April 2012.

It is not yet certain whether the LGPS will be required to provide an underpin in such a case. If it is, then an amendment to regulation 4 of the LGPS (Transitional Provisions, savings and Amendment) Regulations 2014 will be required. The LGPC Secretariat will provide an update in a future Bulletin once the position has been clarified.

From all the above possible scenarios where final pay is (or may be) required it is the view of the LGPC Secretariat that asking for the full-time equivalent pay for all scheme member, per job, using the 2008 Scheme definition of pensionable pay over the Scheme year (for year-end processing) and at leaving / opting out (when calculating the members benefits) is a sensible approach.

### Request to move from the current position of automatic aggregation to a positive election to aggregate

From April 2014 the LGPS in England and Wales moved to a position where automatic aggregation is the norm unless a member with deferred benefits makes an election within 12 months of re-joining the Scheme (or such longer period as the employer might allow) to retain separate benefits. For automatic aggregation to work in the LGPS all LGPS Pension Funds need to work to one consistent approach. The LGPC Secretariat therefore suggested that a request for an Inter-Fund Adjustment is only made by the receiving Pension Fund after 12 months has elapsed from the date the member re-joined the scheme unless the member has confirmed they don't want to retain separate deferred benefits before that date. It is however becoming apparent that Pension Funds are not all working to this consistent approach. As a result of this and also as a result of the problems with the assessment of the pension input for annual allowance purposes, the LGPC Secretariat has made a request to DCLG that we move back to the position where members with an entitlement to a deferred benefit retain separate benefits unless they make an election within 12 months of re-joining the Scheme (or such longer period as the employer might allow) to aggregate. This would be subject to two provisos:

- (a) those who became entitled to the deferred benefit as a consequence of a notice served under regulation 5(2) (ending of active membership) of the LGPS 2013 Regulations or an equivalent regulation in the Earlier Schemes should not be able to elect to aggregate during a continuous period of employment with the Scheme employer to whom the opt out notice was given, and
- (b) automatic aggregation of a deferred benefit should apply (with no right to elect to retain a separate benefit) if the cessation of the concurrent employment, or the

cessation of the employment giving rise to the deferred benefit, occurred because of:

- (i) a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("the TUPE Regulations") apply; or
- (ii) a transfer which is treated as if it were a relevant transfer within the meaning of regulations 2(1) and 3 of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations.

The question has been raised as to when the LGPC Secretariat would expect to see such a change take effect, were DCLG to move away from the current position of automatic aggregation. The LGPC Secretariat have not asked for this to be a retrospective amendment to the regulations. In addition as it's a change in position we would think it unlikely that DCLG would impose a retrospective change for this request. Our position as the LGPC Secretariat has been for administering authorities to get a signed decision from the member as soon as possible and where this does not take place that automatic aggregation takes place at the end of the 12 month window from the member's date of re-joining the Scheme. With this in mind if amending regulations are laid in the coming months and these incorporate a move away from automatic aggregation there would be few cases where an LGPS Pension Fund has the situation where records have had to be automatically aggregated (e.g. April 2014 starters automatically aggregated by April 2015 etc.). However the above is speculation until such time as DCLG indicate their final position on automatic aggregation.

#### Request for members who left pre 1 April 2014 and re-join the LGPS on or after 1 April 2014 who have not had a continuous break in active membership of a public service pension scheme to have aggregated benefits treated as final salary benefits

The LGPC Secretariat response to the draft LGPS (Amendment) Regulations 2015 also seeks a potential amendment to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 for those members who left prior to 1 April 2014 and re-join the Scheme on or after 1 April 2014 and who have not had a continuous break in active membership of a public service pension scheme of more than 5 years. For these members it is not clear why regulation 10(5), and (where the member does not make an election under regulation 5(5) to be treated as if they had been a member on 31 March and 1 April 2014) regulation 10(6), require that the transfer value in respect of the pre 1 April 2014 membership should purchase an amount of earned pension in the member's active pension account (rather than final salary membership in accordance with section 20 of, and paragraph 1 of Schedule 7 to, the Public Service Pensions Act 2013). The LGPC Secretariat believes it should purchase final salary membership (regardless of whether or not the member makes an election under regulation 5(5) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 to be treated as if they had been a member on 31 March and 1 April 2014.

The question has been raised as to when the LGPC Secretariat would expect to see such a change take effect (if DCLG agree that our interpretation of the requirements of the Act is correct). We think such an amendment would more likely be retrospective to 1 April 2014 because this would be a correction of the current position to reflect the provisions of the Public Service Pensions Act 2013. If the LGPC Secretariat interpretation is correct and DCLG make an appropriate, retrospective amendment then, in the case of a scenario D member (see [aggregation paper](#)) who had not had a continuous break in active membership of a public service pension scheme of more than 5 years and who had already elected for a transfer to buy earned pension in the CARE scheme, the

administering authority would have to unpick the case and award final salary membership instead.

#### Other areas awaiting clarification relating to aggregation

Relevant Date: The LGPC Secretariat awaits clarification on what the relevant date for the purposes of an Inter-Fund Adjustment CETV should be.

If a member does aggregate benefits, and an Inter-Fund Adjustment (IFA) CETV is to be paid, what is the relevant date for the purposes of the CETV?

Should it be:

- a) in the case of a **category 2 member**<sup>1</sup> who does not elect to retain separate benefits, the date the member commenced active membership in the new employment or, where relevant, the day following the cessation of the concurrent employment, and
- b) in the case of a **category 3 member**<sup>2</sup>, the date the member elected to be treated as if he / she had been an active member on 31 March 2014 and 1 April 2014.

The LGPC Secretariat has requested that this matter be addressed in the guidance issued by the Secretary of State as, at present, it is not clear how administering authorities should proceed.

It is the view of the LGPC Secretariat that:

- i) in the case of all members, other than those covered by regulation 10(6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, the “guarantee date” where an IFA is to be paid is the date of re-joining the scheme (because that is the date the benefits are automatically aggregated – there is no election to aggregate). Thus, if the IFA is paid within 3 months of re-joining (or cessation of the concurrent employment), the CETV as at the date of re-joining (or the day following the cessation of the concurrent employment) should be paid and if the IFA is paid more than 3 months after re-joining / cessation of the concurrent employment, the CETV as at the date the IFA is paid should be calculated and paid; and
- ii) in the case of members covered by regulation 10(6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, the relevant date for

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**1 Category 2 members** – these are active members of the LGPS in England or Wales who:

- a) have a deferred benefit from a period of membership of the LGPS in England or Wales which ceased after 31 March 2014 or have a deferred benefit from the cessation (after 31 March 2014) of a concurrent LGPS employment in England or Wales, where
- b) the deferred benefit includes pre 1 April 2014 and post 31 March 2014 membership, and
- c) the member was an active member on both 31 March 2014 and 1 April 2014, and
- d) since becoming entitled to the deferred benefit, the member has not had a continuous break in active membership of a public service pension scheme of more than 5 years.

**2 Category 3 members** - these are active members of the LGPS in England or Wales who:

- a) have a deferred benefit from a period of membership of the LGPS in England or Wales which ended prior to 1 April 2014, and
- b) re-join the LGPS in England or Wales on or after 1 April 2014, and
- c) since becoming entitled to the deferred benefit, have not had a continuous break in active membership of a public service pension scheme of more than 5 years.



the calculation should be the date of the election that triggers the transfer. If the amount calculated is paid within three months of the relevant date, then no interest is payable. If payment is delayed, then it is not clear whether interest should be paid (and, if so, at what rate) or whether the CETV as at the date the IFA is paid should be calculated and paid.

Should DCLG incorporate both suggested changes noted in the LGPC consultation response to the draft LGPS (Amendment) Regulations 2015 then the query about the correct relevant date to use no longer exist. The relevant date would be the date the member joined the LGPS where an Inter-Fund Adjustment take places within the first 12 months of the member re-joining the LGPS (or ceasing a concurrent employment) and where the Inter-Fund Adjustment takes place after 12 months from the date the member re-joined the LGPS (or 12 months from ceasing a concurrent employment) the date the CETV is received.

### Conclusion

The LGPC Secretariat welcomes the news from DCLG confirming there is no ongoing final salary link for those members who choose to retain separate deferred benefits in the LGPS. There are, however, a number of areas as noted above that require clarification or potential amendments. The LGPC Secretariat do not suggest that LGPS Pension Funds stock pile cases and instead work should progress to undertake aggregation cases in line with the current laid LGPS Regulations 2013 and LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014. It is hoped that the publication of the ['LGPS Aggregation Leaflet'](#) will assist LGPS Pension Funds in this area of work.

### LGPS Governance and Employer Cost Cap Regulations

On 28 January 2015 [the Local Government Pension Scheme \(Amendment\) \(Governance\) Regulations 2015 \(SI 2015/57\)](#) were laid before Parliament. These regulations include provisions for new local pension boards and the Scheme Advisory Board at national level as well as provisions for the employer cost cap.

There were some key differences between the final laid regulations and those issued for consultation late last year.

In summary these key differences for Local Pension Boards include:

- **Joint Pension Boards** - New regulation 106(3) provides for the establishment of a joint local pension board where the administration and management of a Scheme is wholly or mainly shared by two or more administering authorities. Approval for such a Board would have to be obtained from the Secretary of State.
- **Voting rights** - New regulation 106(7) provides that voting rights only apply to members of a Board who are either an employer or a member representative. In effect this means that 'other members' of a Board do not have voting rights. This amendment to regulations appears to chime with the spirit of the Public Service Pensions Act 2013 which only makes specific reference to employer and member representatives on the Board. Although that Act is silent on other members it would appear that this regulation now aligns with the principles of the Public Service Pension Act 2013.
- **Removal of the requirement for 'relevant experience' for those individuals to be appointed to a local pension board as a member or employer representative** - There is now no requirement in regulations (either regulation 107(2)(a) or 107(2)(b)) for a person who is appointed to a local pension board to have relevant experience. The requirement for capacity is retained.

- **Clarification that only officers or elected members of the administering authority relating to the local pension board are precluded from being members of that local pension board** - Regulations now confirm that officers or elected members of Administering Authority A could be members of the Board of Administering Authority B but cannot be members of the Board for Administering Authority A unless that Board is a committee approved by the Secretary of State under regulation 106(2).
- **Inclusion of new regulation 107(3)(b)** - Regulations now state that any elected member of the Administering Authority may only be appointed to the Board as either an employer or member representative. This additional regulation dovetails with new regulation 106(7) which restricts voting rights to employer and member representatives and avoids the potential confusion of elected members being construed as having voting rights through other legislation applying to council bodies.
- **Inclusion of new regulation 107(4)** - This regulation provides further clarification on the constitution of a combined board and committee as provided for through regulation 106(2).

One other area clarified in these laid regulations include that the employer cost cap is set at 14.6% of pensionable pay of scheme members.

DCLG also issued a response to the two consultations which these regulations went through last year and that response can be found on the [Government's website](#).

In addition the Shadow Scheme Advisory Board published guidance on the creation and operation of local pension boards as well as template terms of reference for a local pension board and a response to the consultation on the guidance which took place late last year. See the article below under '[Shadow Scheme Advisory Board](#)' for more information.

### HR, Payroll and Administration Guides Updates

In January 2015 the following guides were updated to reflect, amongst other things, the changes to the 2013 Regulations which were made via the 2014 Shared Parental Leave Order. All updated documents are available on the [LGPS Regulations website](#).

- [HR Guide](#) - version 3.7
- [Payroll Guide](#) - version 3.6
- [Administration Guides](#) including:
  - 85 year rule - version 1.9
  - Aggregation - version 1.5
  - AVC scenarios - version 8.1
  - Discretions list - version 1.4
  - Discretions policies - version 1.5
  - Practitioners' guide - version 2.4
  - Survivor benefits - version 1.4
  - Trivial commutation and small pot payments - version 1.2
  - Underpin - version 1.4
- [Sample 50/50 form and guidance notes](#) - version 1.1
- [Shadow Board Annual Benefit Statement guidance](#) - version 1.3

### LGPS Contribution Bands in England and Wales from April 2015



The LGPC Secretariat has fielded a number of queries in recent weeks on what (if any) increase will be applied to the LGPS contribution bands from April 2015. Regulation 9(4) of the LGPS Regulations 2013 provides the mechanism by which the pensionable pay ranges in the contribution table can be increased in April each year while regulation 9(5) sets the appropriate increase as being the Pensions Increase figure applicable from first Monday falling on or after 6 April (assuming a Pensions Increase date of 1 April 2014).

Whilst it has yet to be formally confirmed by DCLG, the LGPC Secretariat anticipate that the Shadow Scheme Advisory Board will, following its meeting on Friday 6 February, make recommendations to DCLG that the approach laid out in regulations is followed in April 2015.

We therefore anticipate that the employee contribution bandings will be increased in line with the provisions of regulation 9(4) and 9(5) of the LGPS 2013 Regulations by 1.2% (Consumer Prices Index at 30 September 2014) rounded down to the nearest £100. As indicated above this will need to be confirmed and we await official confirmation from DCLG.

For information, if the bandings are updated by 1.2% in April, our indicative rate table (with effect from 1 April 2015) is as below:

<b>Contribution Table 2015/16</b>		
<b>If your pay is:</b>	<b>You pay a contribution rate of:</b>	
	<b>Main section</b>	<b>50/50 section</b>
Up to £13,600	5.5%	2.75%
£13,601 to £21,200	5.8%	2.9%
£21,201 to £34,400	6.5%	3.25%
£34,401 to £43,500	6.8%	3.4%
£43,501 to £60,700	8.5%	4.25%
£60,701 to £86,000	9.9%	4.95%
£86,001 to £101,200	10.5%	5.25%
£101,201 to £151,800	11.4%	5.7%
£151,801 or more	12.5%	6.25%

Once the LGPC Secretariat has received confirmation from DCLG of the contribution table for 2015/16 we will notify LGPS Pension Fund's in England and Wales accordingly.

### **LGPS Year-end information**

The Communications Working Group agreed to develop information to assist LGPS Pension Fund's in the first year-end process for the new career average scheme. A year-end information document and an accompanying excel template has now been issued on the [LGPS Regulations website](#).

The information has been designed to assist LGPS Pension Funds when developing their own year-end templates to provide to employers for the Scheme year ending 31 March

2015. The spreadsheet notes the core data items which employers must supply to LGPS Pension Fund administering authorities for each employee who is a member of the scheme during the Scheme year, supplied per job.

We understand that Pension Funds will devise their own year-end procedures to meet with local needs and to fit with the software which they have. The spreadsheet might, however, be of assistance in developing year end procedures, particularly in respect of employers who do not currently provide data via an interface to the administering authority's pensions administration software.

As the year end information document and spreadsheet have been designed to assist Pension Fund's in creating their own year-end procedures we have indicated on the guidance that employers must comply with any requirements laid down by their Pension Fund(s) rather than complete this draft template return. Also the document and spreadsheet covers information required for the administration of member records; further financial information for accountancy purposes will also be required. Both the year-end information document and the spreadsheet are available on the [LGPS Regulations website](#).

## LGPS Scotland

### HR, Payroll and Administration Guides Scotland

During January 2015 the following documents were made available on [www.lgpsregs.org](http://www.lgpsregs.org) for LGPS Pension Funds and employers in Scotland. The latest version numbers of each document are also noted below:

- [HR Guide](#) - version 1.1
- [Payroll Guide](#) - version 1.3
- [Administration Guides](#):
  - 85 year rule - version 1.0
  - Aggregation - version 1.1
  - Annual Benefit Statements - version 1.1
  - Discretion List - version 1.0
  - Discretion Policy - version 1.0
  - Survivor Benefits - version 1.0
  - Transfers - version 1.0
  - Trivial commutation - version 1.2
  - Underpin - version 1.1
  - Practitioners' Guide - version 1.4
- [Forms](#):
  - Form 50/50 - employer guidance - version 1.0
  - Form 50/50 - election form - version 1.0
  - Form main - election form - version 1.0

## Automatic Enrolment

### LGPC Response to Technical Changes to Automatic Enrolment

In [Bulletin 121](#) the LGPC Secretariat outlined details of a Department for Work and Pensions (DWP) [consultation on technical changes](#) to automatic enrolment.

The LGPC Secretariat has now responded to this consultation and the full response is available from the [LGPS Regulations website](#).

### **TPR publishes monthly automatic enrolment declaration of compliance report**

The Pensions Regulator (TPR) has published its monthly report on automatic enrolment, which sets out information based on data submitted by employers. The report indicates that 43,538 employers completed their declaration of compliance between July 2012 and December 2014. See [TPR's website](#) for details.

### **Nominated Contact for Returning Officers**

The LGPC Secretariat have recently been contacted by an LGPS Pension Fund who have received a letter from TPR in respect of the staging date for the Returning Officer at their local authority. The letter seeks a nominated contact to receive information over the coming months in advance of the staging date for the Returning Officer (as an employer in their own right). The LGPC Secretariat's position remains that the Returning Officer is the employer and it is for them (not the authority) to make the necessary arrangements to comply with the automatic enrolment provisions of the Pensions Act 2008.

### **Shadow Scheme Advisory Board England and Wales**

#### **SSAB publishes guidance on Local Pension Boards**

Each Administering Authority must establish its Local Pension Board by 1 April 2015. The Shadow Scheme Advisory Board (SSAB) of the LGPS in England and Wales issued guidance for Administering Authorities on the creation and operation of local pension boards on 28 January 2015. It was accompanied by a response to the consultation on the guidance held in autumn 2014 as well as a template 'terms of reference' for a local pension board. All documents are available on the [Board's website](#).

#### **SSAB publishes further Counsel's opinion on the LGPS**

In 2014 the SSAB sought and published advice from Counsel on fiduciary duty in the LGPS - see the [Board's website](#) for more details of that advice.

Following this, further advice has been commissioned to cover:

- confirmation of the requirement to meet benefit payments separate from the status of the funds; and
- the interaction between the LGPS and the EU Institutions for Occupational Retirement Provision (IORP) Direction 2003.

That advice has now been published and is available on the [Board's website](#). A commentary on this advice is also available on the [Board's website](#).

### **Other News and Updates**

#### **Transfers from LGPS to Defined Contribution Schemes**

The LGPC Secretariat has received calls from administering authorities saying that they are starting to receive numerous requests from scheme members and from financial advisers asking for CETV quotes if the member were to opt out of the Scheme and transfer their accrued rights before April (presumably because this would avoid the need for the member to obtain independent financial advice under Freedom and Choice).

The administering authorities have asked for clarification of the current legal position.

The relevant elements of Chapter IV of the Pension Schemes Act 1993 say:

## Chapter IV Transfer Values

### 93 Scope of Chapter IV

#### (1) **This Chapter applies-**

##### (a) **to any member of an occupational pension scheme-**

(i) **whose pensionable service has terminated** at least one year before normal pension age, and

(ii) who on the date on which his pensionable service terminated had accrued rights to benefit under the scheme,

except a member of a salary related occupational pension scheme whose pensionable service terminated before 1st January 1986 and in respect of whom prescribed requirements are satisfied

### 93A Salary related schemes: right to statement of entitlement

(1) The trustees or managers of a salary related occupational pension scheme must, on the application of any member, provide the member with a written statement (in this Chapter referred to as a "**statement of entitlement**") of the amount of the cash equivalent **at the guarantee date** of any benefits which have accrued to or in respect of him under the applicable rules.

(2) In this section-

**"the guarantee date"** means the date by reference to which the value of the cash equivalent is calculated, and must be-

(a) within the **prescribed period** beginning with the date of the application, and

(b) within the **prescribed period** ending with the date on which the statement of entitlement is provided to the member.

(3) Regulations may make provision in relation to applications for a statement of entitlement, including, in particular, provision as to the period which must elapse after the making of such an application before a member may make a further such application.

[Note: regulation 6 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 [SI 1996/1847] provides that the **guarantee date** must be within a period of 3 months from the date of the member's application under s93A of the Act for a **statement of entitlement**]

### 94 Right to cash equivalent

(1) Subject to the following provisions of this Chapter-

(aa) a member of a salary related occupational pension scheme who has received a statement of entitlement and has made a relevant application within three months beginning with the **guarantee date** in respect of that statement acquires a right to his **guaranteed cash equivalent**;

(1A) For the purposes of subsection (1)(aa), a person's **"guaranteed cash equivalent"** is the amount stated in the **statement of entitlement** mentioned in that subsection.

### 98 Variation and loss of rights under s 94

(1A) Regulations may provide that a member of a salary related occupational pension scheme who continues in employment to which the scheme applies after his pensionable service in that employment terminates-

(a) acquires a right to only part of his guaranteed cash equivalent, or

(b) acquires no right to his guaranteed cash equivalent.

*[Note: regulations 3 and 4 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 [SI 1996/1847] provide that an optant out can only transfer post 5/4/88 benefits but can transfer the pre 6/4/88 benefits when the employment ceases. Regulation 18 also provides that if the member re-joins the scheme within a month of opting out they are, for the purposes of transfers out, treated as never having left the scheme (and so cannot have a transfer out unless the administering authority has paid a transfer out within that month).]*

#### *99 Trustees' duties after exercise of option*

*(2) Subject to the following provisions of this section, if the trustees or managers of a scheme receive an application under section 95, they shall do what is needed to carry out what the member requires-*

*(a) in the case of a member of a salary related occupational pension scheme, within 6 months of the guarantee date, or (if earlier) by the date on which the member attains normal pension age*

*Regulation 11 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 [SI 1996/1847] says:*

#### *11 Disclosure*

*(1) Subject to paragraphs (1A) and (1B), **an active member of any scheme**, and a deferred member of a money purchase scheme, **is entitled to receive** from the trustees, on request, **the information mentioned in Schedule 1 in writing.***

*(1A) Paragraph (1) does not apply where the request is made within 12 months of the last occasion that such information was provided to the member.*

*(1B) Information provided under paragraph (1) is to be provided by the trustees as soon as reasonably practicable, and in any event within three months after the date that the member makes the request.*

*(3) For the purposes of paragraph (1) "active member" and "deferred member" have the meaning given to those expressions by section 124 of the 1995 Act (interpretation).*

*(4) The trustees must ensure that a statement of entitlement to a guaranteed cash equivalent is accompanied by-*

*(b) a statement in writing-*

*(iii) explaining the terms and effect of regulation 6(3) (no right to make an application for a guaranteed statement of entitlement within 12 months of the last such application),*

*(iv) explaining that if the member wishes to exercise his right to take the guaranteed cash equivalent the member must submit a written application to do so within three months beginning on the guarantee date;*

*(v) explaining that in exceptional circumstances the guaranteed cash equivalent may be reduced and that the member will be informed if it is so reduced*

*(c) the information mentioned in paragraph 3 of Schedule 1.*

And Schedule 1 says:

#### *Schedule 1*

*Information to be Made Available to Members*  
*Regulation 11*

**1 Whether any cash equivalent (within the meaning of Chapter IV of Part IV of the 1993 Act) is available to the member or would be so available if the member's pensionable service were to terminate and if so -**

**(a) an estimate of its amount, calculated and verified in accordance with regulations 7 to 7E on the basis that the member's pensionable service terminated or will terminate on a particular date;**

**(b) the accrued rights to which it relates;**

So, it seems to the LGPC Secretariat that an administering authority has to provide a CETV quote (for post 5/4/88 membership), guaranteed for three months, but based on the assumption that the member terminates pensionable service on a particular date. However, the administering authority has three months from the date of the request to provide the CETV quote. If the administering authority makes use of this provision and delays providing the quote until April they may then, under the Freedom and Choice provisions, be able to require that before a CETV is paid, the member must produce evidence to the administering authority that they have taken proper financial advice and have decided to transfer. If the member does not terminate pensionable service (by opting out) on the date used for the CETV quotation the LGPC Secretariat cannot see how the original quote can then apply or be guaranteed for three months because the assumption on which the quote was given has not been met.

Administering authorities might also wish to note that the Financial Conduct Authority (FCA) has [announced plans](#) to introduce further protection for savers accessing their defined contribution pension funds under the reforms coming into effect in April 2015. The additional protection will involve a requirement that companies ask consumers about aspects of their circumstances that relate to their decision-making over their pension pot, such as health and lifestyle choices. The new rules will also require providers to give relevant risk warnings to consumers and to highlight the availability of the Pension Wise scheme or other regulated advice.

Speaking during the House of Lords debate of the Pension Schemes Bill, Lord Newby confirmed that the additional protection for pension savers outlined above by the FCA will be extended to apply to trust-based schemes. He also announced changes to the exemption from taking regulated advice for those approaching retirement with a small DB scheme. Previously, a saver wishing to transfer into a DC scheme was going to be exempt from the advice requirement if their overall pension wealth did not exceed £30,000. Following the amendment, pension savers will only need to receive advice if the transfer value associated with their defined benefit pension is more than £30,000.

### **TPR laid Code of Practice number 14 before Parliament**

TPR presented an updated draft code of practice number 14 to Parliament on the 12 January 2015 which must lie in draft for forty days during which time the House of Commons or House of Lords may resolve that the code is not made. The expectation is, however, that this version of the code of practice issued on 12 January 2015 will be confirmed in February 2015. The following documents are all available on TPR's website:

- [Code of Practice number 14](#) (draft)
- [Response to consultation on the Code of Practice number 14](#)
- [Short Essential Guide to public service code of practice number 14](#)
- [Regulatory Strategy](#).



Also, if you enter your contact details at <https://secure.thepensionsregulator.gov.uk/psNews.aspx> you will be added to TPR's automated mailing list of public service specific news by email & updates.

### **TPR issue e-learning programme for public service pension schemes**

TPR has launched an online e-learning programme aimed at those who are involved in running public service pension schemes including scheme managers and local pension board members. You can sign up for this free service at [TPR's website](#).

This e-learning programme is aimed at all public service pension schemes and as a result of this it's not anticipated that undertaking this e-learning course alone would meet with the Knowledge and Understanding requirements for members of Local Pension Board's in the LGPS.

### **Pensions for Councillors in Wales**

[Bulletin 121](#) included an article on potential options being considered by the LGA on pensions for councillors in England. Since publication of that Bulletin, LGPS Pension Funds in Wales have sought confirmation of the position relating to councillors in Wales, particularly post 1 April 2015.

Regulation 26(1)(a) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 allows councillors in Wales to remain in the 1998 scheme indefinitely (through the saved provisions of the LGPS 1997 Regulations). Councillors in England who were members of the LGPS on 31 March 2014 can remain in the 1998 scheme until the end of their current term of office.

Regulation 3(3) of the Public Service Pensions Act 2013 (Commencement No.4) Order 2014 (SI 2014/839) provides that section 10 (pension age), section 18 (restrictions of existing pension scheme) and schedule 5 (existing pension schemes) of the Public Service Pensions Act 2013 are not in force in respect of councillor members in both England and Wales. Therefore unless / until a Commencement Order switches those sections and schedule on for councillors in England and Wales we can simply leave them in the 1998 Scheme. This means that, unless or until information to the contrary is received, councillors in Wales should remain in the 1998 Scheme beyond the 31 March 2015 and councillors in England can remain in the 1998 scheme until the end of their current term of office.

### **HMRC Countdown Bulletin Number 5 issued**

In January 2015, HMRC published their 'Countdown Bulletin Number 5'. As well as updates on the countdown to the end of contracting out the Bulletin includes information on:

- Withdrawal of the Temporary SCON number,
- Generic Notification Services (GNS) messages,
- GMP Digital Solution,
- Information on factsheets for employers (private sector), employees and trustees state pension toolkit, and
- Update on their Pension Conferences for 2015.

To read in full please visit the [Government's website](#).

## **Pension Ombudsman publishes three further determinations relating to suspected Pensions Liberation fraud**

In [Bulletin 121](#) we indicated that the Pension Ombudsman was due to publish further information about a group of cases where people who wanted a transfer out from their schemes but that transfer was blocked by their pension schemes. Those three further determinations have now been published and are available on the [Pensions Ombudsman's website](#).

Since publishing those decisions the Pensions Ombudsman has [announced](#) it understands that, in the light of those decisions, people are considering bringing complaints that transfers were made, but should have been blocked. In particular those complaints may be about transfers to the Capita Oak Pension Scheme.

The Pensions Ombudsman is presently investigating one complaint of that kind and expects to publish a decision in the first half of this year. It won't be binding on anyone except the parties to it, but it will give a good indication of the Pension Ombudsman's general approach. That will hopefully help transferring schemes and scheme members deal with other individual cases.

HM Revenue & Customs (HMRC) has published a [pension liberation newsletter](#), outlining the action it is taking against pension liberation.

## **LGPS legal service framework launched**

National LGPS Frameworks has launched a new legal services framework so that LGPS Funds as well as employers and wider public sector pension bodies can access legal services with greater ease and more cheaply. The framework includes 11 different providers. For more information visit the [National LGPS Frameworks website](#).

## **LGPS Funds to create £500m investment platform**

Greater Manchester Pension Fund and London Pensions Fund Authority (LPFA) are to create a £500m investment platform with the aim of allowing the Funds to increase their investment in infrastructure. For more information see the press release on the [LPFA's website](#).

## **Responsible Investment Reporting Guide published**

A group of 16 pension funds have published a reporting guide aimed at ensuring that fund managers deliver on the responsible investment promises that they commit to when they are awarded a pensions mandate. The group which includes 6 LGPS Pension Funds indicates that they believe that Responsible Investment (RI) reporting can help improve the transparency between asset owners and fund managers. For more information please visit the [Environment Agency's website](#).

## **The Public Service Pensions Act 2013 (Commencement No.6, Saving Provision and Amendment) Order 2015**

The above order brings into force certain provisions of the Public Service Pensions Act 2013, makes a saving provision and amends an earlier commencement order.

The order includes the following provisions:

- Article 2 commences on 1 April 2015 sections 4 to 7 (governance), section 11 (valuations) and section 12 (employer cost cap) for schemes for local government workers in England and Wales. The effect of this and previous commencement orders is that those sections will come into force on 1 April 2015 for all remaining

purposes, except that section 12 will come into force on 1 April 2016 for the final remaining purpose of making scheme regulations for local government workers in Scotland

- Article 3 commences on 1 April 2015 section 15 (information about schemes) and section 16 (records).
- Article 4 commences on 1 April 2015 section 17 and Schedule 4 (regulatory oversight) with a saving for codes issued under the Pensions Act 2004 (c.35) before that date in relation to early leavers.
- Article 5 commences on 1 April 2015 sections 30 to 32 (public body pension schemes) and Schedule 10 (public bodies whose pension schemes must be restricted).
- Article 6 amends the Public Service Pensions Act 2013 (Commencement No. 5) Order 2014 (c.86)(S.I. 2014/1912) so that section 12 (employer cost cap) will not come into force for schemes for local government workers in Scotland on 1st April 2015, as the order originally provided. Instead it will come into force on 1st April 2016 as provided by article 2 of this Order.

See the [Legislation website](#) for full details of this Statutory Instrument.

## Bits and Pieces

### **Circular 288 - Annual LGPS "Trustees" Conference and Training for Local Pension Board Members**

Circular 288 was emailed to LGPS Pension Managers on 30 January 2015 and includes information on the LGPC Annual LGPS "Trustees" Conference as well as forthcoming training for local pension board members.

The Annual LGPS "Trustees" Conference takes place Thursday 25 and Friday 26 June 2015 in the Marriott Hotel in Cardiff. The conference is not bookable at this stage and once the programme is finalised a further circular will be issued with more details on the content for the conference. It is expected that the conference entitled "know your onions" will cover topics including:

- Freedom & Choice - impact for the LGPS,
- Active vs Passive Management,
- Cessation of contracting-out, impact for employers,
- Investment opportunities round-up,
- Legal update, and
- Local pension boards.

The training for local pension board members which the LGPC is offering will be a one-day event to be repeated at several locations to assist local pension board members in meeting their Knowledge and Understanding requirements in their new role.

The events are not yet bookable and once the programme has been finalised a further Circular will be issued in February 2015 which will include details of dates and venues. The likely date for these events commencing will be mid-May 2015.

## Legislation

### United Kingdom

SI	Reference Title
2014/3229	The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 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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