

Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 132 – July 2015

This Bulletin contains an update for LGPS administering authorities in England and Wales on current issues relating to the actuarial guidance issued by the Secretary of State. Most of the issues were discussed at a meeting on 28th May 2015 between the LGPC Secretariat, DCLG, GAD and the pensions administration software providers. The outcomes from that meeting are shown in the text boxes at the end of each item below.

Use of Accumulated AVCs to provide additional pension under the Scheme

Paragraph 3.1 of the guidance on “Use of Accumulated AVCs to provide additional pension under the Scheme” (dated 28th March 2014) states:

3.1 The additional pension is payable from the date used in the calculation. Increases after the date of commencement should be granted at the same time and at the same rate as the pension increases on the rest of the member’s scheme pension.

The LGPS Secretariat believes this wording could be misleading. Take, for example, a member who retires on 31st March 2015 and has their pre 1st April 2014 final salary benefits based on the best of the last 3 years pay or the average of 3 years pay in the last 13 years ending on a 31st March (where regulations 8 or 10 of the Benefits Regulations 2007 apply). The final salary element of their main scheme pension would have a PI date one day after the last day of the final pay period used to calculate their pre 1st April 2014 benefits and the CARE pension would have a PI date one day after their last day of active membership. The pre and post-14 elements of their main scheme benefits would, therefore, both have different PI dates and so a more appropriate form of wording should, be used in paragraph 3.1.

At a meeting on 28th May 2015, GAD and DCLG agreed to make an appropriate change to the wording of paragraph 3.1 in the next iteration of the guidance which is due to be issued later this year.

Early payment of pension

The LGPC Secretariat believes it would be helpful if paragraph 1.2 of the "Early Payment of Pension" guidance (dated 28th March 2014) could be updated to make it clear that the guidance applies to Councillor members too.

The LGPC Secretariat is also of the view that paragraph 2.18 of the guidance should be updated to reflect the following:

Where a member's pension includes an underpin "guarantee amount" both:

- a) the underpin "guarantee amount", and
- b) the amount of the pension in the member's post-14 pension account accrued prior to the member's 2008 Normal Pension Age (NPA), but excluding any element of that post-14 pension account which was derived from a transfer in or which relates to an APC / SCAPC (other than where the APC / SCAPC was to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of authorised unpaid leave of absence),

are treated as if they were pension accrued under the 2008 Scheme for the purposes of determining any actuarial reduction due on them.

Furthermore -

- c) any element of the member's post-14 pension account which was derived from a transfer in or which relates to an APC / SCAPC (other than where the APC / SCAPC was to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of authorised unpaid leave of absence) is treated as pension accrued under the 2014 Scheme for the purposes of determining any actuarial reduction due on them (related to the member's NPA in the 2014 Scheme).

The rationale for (c) is twofold. Firstly, regulations 4(5)(b)(i), 4(5)(c) and 4(5)(d) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 exclude the elements in (c) from the underpin calculation (and so they must, therefore, be paid in addition). Secondly, the amount of pension credited to the member's account from a transfer in and the amount of the additional pension purchased via the APC / SCAPC were based on the member's NPA under the 2014 Scheme.

The LGPC Secretariat also believes that in paragraphs 2.10 and 2.13 of the guidance the words "*the date of the member's 60th birthday*" should be amended to "*the day before the date of the member's 60th birthday*". This is because paragraphs 1(1)(b) and 1(3) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 deal with members who have attained age 60 and paragraphs 1(1)(c) and 1(4) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 deal with members who have not attained age 60. Given that paragraph 1(4) cannot apply to a member who has attained age 60 the actuarial reduction should be for the period to the day before age 60. An amendment to the LGPS (Transitional Provisions, Savings and Amendment) Regulations

2014 has also been requested so that the Regulations also require the reduction period is to the day before age 60.

At a meeting on 28th May 2015, GAD and DCLG agreed to make appropriate changes to the wording of paragraphs 1.2 and 2.8 of the guidance to deal with the issues raised above. The changes are to be included in the next iteration of the guidance which is due to be issued later this year. GAD remain unconvinced that a change to paragraphs 2.10 and 2.13 is required. However the difference is not material actuarially and GAD are happy to take on board views of legal and policy colleagues on this point.

Application of a Pension Credit to the Former Spouse or Civil Partner of the Member

At the end of paragraphs 3.6. and 3.7 of the guidance on the “Application of a Pension Credit to the Former Spouse or Civil Partner of the Member” (dated 26 March 2014) it says that the elements for PC₁, PC₂ and PC₃ should be stored separately for possible future reference.

The LGPC Secretariat can understand why the elements of the Pension Debit have to be held separately (because, for example, each element of the debit might have to have a different actuarial adjustment applied if the Debit Member draws benefits early, or because the member might draw all of their pre-2008 benefits and none of their post-2008 benefits upon flexible retirement). However, the Secretariat can think of no reason to have to hold the PC₁, PC₂ and PC₃ elements of the Pension Credit separately.

Subsequent to the meeting on 28th May 2015, GAD confirmed that the distinction may be needed for the cost management process. Therefore, GAD proposes not to amend the guidance for now.

Application of a Pension Credit to the Former Spouse or Civil Partner of the Member

In paragraph 4.11 of the guidance on the “Application of a Pension Credit to the Former Spouse or Civil Partner of the Member” (dated 5th October 2012) which is still extant for cases where the Transfer Day was prior to 1st April 2014 or where the debit member left prior to 1st April 2014, the credit for pre-1st April 2008 service is displayed as $PC_1 = ESCE_1 \div (FP + 3 \times F_L)$ but F_L is not defined in paragraph 4.12.

The value of F_L should always be 1.00 as the instruction to use a factor of 1.00 against the lump sum was contained in the clarificatory e-mails of March 2009 (issued by both CLG and SPPA) and reiterated in GAD’s email to the LGPC Secretariat of August 2012.

Subsequent to the meeting on 28th May 2015, GAD confirmed that the value of F_L should always be 1.00 an appropriate amendment will be included in the next iteration of the guidance.

Application of a Pension Debit for Divorced Members

Para 2.8 of the “Application of a Pension Debit for Divorced Members” guidance (dated 28th March 2014) states:

2.8 Retirement age, for a given tranche of benefits, is the earliest age from which the member can take those benefits unreduced without consent.

and paragraphs 4.9 and 4.10 state:

Application of a debit before or after retirement age

4.9 Where a debit is applied either before or after the retirement age that applies to the corresponding benefit then the debit should be reduced or increased in accordance with the early retirement or late retirement guidance in force in exactly the same way as the corresponding benefit – with the following exceptions:

4.10 Where the Transfer day is after retirement age, the late retirement uplift should be applied from the Transfer day to the date benefits come into payment.

Taking this literally it would mean for a person with a Normal Pension Age of 65, a Transfer Day = age 67, and who retires at age 70, the actuarial uplift would be 67-70 i.e. 3 years. That seems correct as the debit would have been calculated at age 67 and would only require 3 years’ worth of uplifting.

However, it would mean for a person with CRA of age 60, a Transfer Day = age 62, and who retires at age 65, the actuarial uplift would be 62-65 i.e. 3 years. But why should the debit be subject to an uplift when the debited member’s benefits would not be subject to an uplift (because the debited member had not attained Normal Pension Age)?

Paragraph 3.56 of the former “Application of a Pension Debit for Divorced Members” guidance (dated 4th March 2013) states:

Active members retiring after age 65

3.56 For a member who retires later than age 65, the debit applied should be increased. This is because the debit will be applied over a shorter period than was assumed when calculating the original debit, so a higher amount should be deducted. However, no late retirement increases will apply to retirements between CRA and age 65 similar to main scheme benefits, but see paragraph 3.62. The late retirement factors should be applied to the debit in accordance with the latest GAD guidance note on late retirement. However, where the member is already over age 65 on the Transfer day the late retirement factors should only be applied in respect of the period between the Transfer day and the date of retirement.

(Paragraph 3.62 is just about GMP indexation). The last sentence in paragraph 3.62 above seems more logical and the LGPC Secretariat therefore questions whether paragraph 4.10 of the current guidance should be amended to say:

4.10 Where the Transfer day is after Normal Pension Age, the late retirement uplift should be applied from the Transfer day to the date benefits come into payment.

Subsequent to the meeting on 28th May 2015, GAD confirmed that the hypothesis put forward by the LGPC Secretariat is correct. That is, for a debit applied to benefits taken before NPA but after CRA no later retirement factor (LRF) should apply.

This is, perhaps, implied in paragraph 4.10 by the context of paragraph 4.9, but it could certainly be clearer and clarification should be incorporated into the next iteration of the guidance.

Purchase of additional pension – elections on or after 1 April 2014

The LGPC Secretariat believes that, in order to reflect the LGPS Regulations 2013, paragraph 4.3 of the guidance on “Purchase of additional pension – elections on or after 1st April 2014” (dated 27th March 2014) should be amended to read:

4.3 On early retirement (before normal pension age under the 2013 Regulations), to allow for early payment an actuarial reduction will apply to the additional pension purchased (or granted) under

a) regulation 16 or

b) regulation 31 except where regulation 30(7)(b) applies i.e. the member is aged 55 or over and is dismissed by reason of redundancy or business efficiency, or whose employment is terminated by mutual consent on grounds of business efficiency.

At a meeting on 28th May 2015, GAD and DCLG agreed to make an appropriate change to the wording of the guidance to deal with the matter raised above. The change is to be included in the next iteration of the guidance which is due to be issued later this year.

Limit on Total Amount of Benefits – Lifetime Allowance

Now that the relevant legislation has been enacted, the LGPC Secretariat has asked that Section 5 of the “Limit on Total Amount of Benefits – Lifetime Allowance” guidance (dated 31st March 2014) be updated to include guidance on Individual Protection 2014.

Also, in paragraphs 2.20 to 2.22 of the guidance it says that a member can commute pension above the ALTA for a lump sum. However, whilst that is permissible under the Finance Act 2004 it appears that, as the LGPS is a contracted-out scheme, it cannot allow commutation of pre 6th April 1997 GMP or post 5th April 1997 section 9(2B) rights for a Lifetime Allowance Excess Lump Sum. This is because regulations 20 and 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 [SI 1996/1172] do not permit such rights to be commuted. It appears from the draft Occupational Pension Schemes (Schemes that were Contracted-out)

Regulations 2014, which will come into force on 6th April 2016 and effectively replace the Occupational Pension Schemes (Contracting-out) Regulations 1996, that these restrictions will continue post 2016.

At a meeting on 28th May 2015, GAD and DCLG agreed to consider the above points and, if appropriate, make changes to the guidance to deal with the matters raised above. Any changes would be included in the next iteration of the guidance which is due to be issued later this year and GAD may take the opportunity to streamline the guidance at that time.

Protected Regulation 66(8) guidance – Adjustment of Transfer Credits granted from accumulated AVCs

The LGPC Secretariat is of the view that the “Protected Regulation 66(8) guidance – Adjustment of Transfer Credits granted from accumulated AVCs” (dated 24th August 2011) needs updating to cross refer to the correct regulations and to the correct transfer factor suite factors i.e. the non-Club factors (Tables 2.1 and 2.2) set out in the guidance document “Actuarial Factors for Individual Cash Equivalent and Club Transfers from 1st January 2012” (issued on 22nd February 2012 - see [here](#)) should continue to be used in conjunction with the Protected Regulation 66(8) guidance, where the benefit is payable from age 65.

At a meeting on 28th May 2015, GAD and DCLG agreed to make an appropriate change to the wording of the guidance to deal with the matter raised above. The change is to be included in the next iteration of the guidance which is due to be issued later this year.

Extant “old” GAD that is still required for certain purposes

The LGPC Secretariat has made the following points in relation to the list of extant actuarial guidance published by DCLG in November 2014 (located [here](#)).

Section A

Footnote 2 should also say that the “Use of accumulated AVCs to provide additional pension under the Scheme” guidance dated 20th March 2012 also applies to councillor members regardless of whether they commenced payment of the AVCs before, on or after 1st April 2014 (because they are still members of the 1998 Scheme and also because the section on dependant’s benefits in the current guidance at paragraphs 3.8 to 3.12 quotes the CARE survivor percentages, whereas the percentages for councillors would be different because they are still in the 1/80th 1998 Scheme).

In Footnote 4 amend “transfers in in” to “transfer in” and amend “effective date” to “relevant date” for consistency with the terminology used in the current transfers in / out guidance.

Section B

The entry for “Payments to increase total membership” has been removed from section B as no new added years contracts have been allowed since 1st April 2008. However, the LGPC Secretariat is not certain whether the guidance dated 17th January 2007 (see http://timeline.lge.gov.uk/GAD/Regulation%2055_6_%20GAD%20Guidance%20post_011006%20elections.final.pdf) should instead be shown as an entry in Section A (as, like ARC contracts, there are still existing added years contracts that are ongoing and, presumably, GAD could amend the factors from time to time for existing contracts) or whether it should be shown as an entry in Section C (if GAD never intend to amend the factors again for existing contracts). GAD should consider this point and decide whether the entry should be inserted in Section A or Section C.

Section C

The entry for “Application of a pension debit for divorced members: 4th March 2013” should not appear in List C but, rather, should be included in List A as paragraph 1.2 of the “Application of a pension debit for divorced members” dated 28th March 2014” says that the guidance dated 4th March 2013 should be used where the Transfer Day is before 1st April 2014. So, if the LGPC Secretariat has understood it correctly, where the Transfer Day is before 1st April 2014 the debit to be applied to the member’s benefits upon eventual retirement (which could be many years after April 2014) should be calculated in accordance with the 4th March 2013 guidance and not the guidance dated 28th March 2014.

At a meeting on 28th May 2015, GAD and DCLG agreed to make appropriate changes to the wording of the list of extant actuarial guidance to deal with the matters raised above. The changes are to be included in the next iteration of the list of extant actuarial guidance which is due to be issued later this year.

Transfers factors to use where a transfer from a public service pension schemes is treated as a non-Club transfer

In Scotland, the calculation of the non-Club final salary service credit in respect of a transfer from a public service pension scheme which includes final salary benefits where:

- a) the break between Scheme A and Scheme C is more than 5 years, but
- b) there has not been a break in active membership of public service pension schemes of more than 5 years because he / she had been a member of Scheme B in between A and C

is to be referred to GAD via SPPA on a case by cases basis.

On the strength of that, the LGPC Secretariat has previously and, it turns out, incorrectly notified administering authorities in England and Wales that they should refer such cases to DCLG for onward transmission to GAD.

At a meeting on 28th May 2015, GAD and DCLG agreed that in such cases, administering authorities in England and Wales should, instead, for the time being continue to use the non-Club factors from the previous guidance dated 26th March 2010 and 22nd February 2012, with a relevant date of the later of the date the person joined the LGPS or the date the CETV is received (if received more than 12 months after the date the person joined the LGPS). The Secretary of State should issue an update to that effect.

Individual Incoming and Outgoing Transfers

Issue 1

Paragraph 3.1 of the “Individual Incoming and Outgoing Transfers” guidance (dated 28th March 2014) says:

3.1 A member is entitled to a CETV quotation for the purposes of transferring their pension provided that they make a transfer request at least one year before their Normal Pension Age, or if later, within 6 months of leaving as long as the request is made before the member’s Normal Pension Age.

However, this is no longer correct.

As a result of changes made, as from 6 April 2015, to sections 93 and 95 of the Pension Schemes Act 1993 and also on account of the wording of section 101AA of the Act, a member who is not in receipt of their pension is entitled to a CETV quotation for the purposes of transferring their pension provided:

- i) if the CETV is in respect of an entitlement in the scheme to a deferred benefit:
 - the member ceased active membership at least a year before Normal Pension Age
 - the member elects for the transfer at least a year before their Normal Pension Age
 - the member is not an active member of the scheme (e.g. in another employment), and
 - the member has not already had a crystallisation event in respect of other benefits in the scheme (other than AVCs or pension credit benefits)
- ii) if the CETV is in respect of an entitlement in the scheme to a deferred refund:
 - the member ceased active membership before Normal Pension Age
 - the member elects for the transfer before the end of the period the administering authority had set for the member to elect for a transfer
- iii) if the CETV is in respect of an entitlement in the scheme to a pension credit:
 - the pension credit member elects for the transfer at least a year before their Normal Pension Age

- the pension credit member has not already had a crystallisation event in respect of other pension credit rights they may have in the scheme (other than relating to AVCs)

iv) if a CETV quotation is required for pension sharing purposes it must be provided at any age.

It has been suggested, therefore, that paragraph 3.1 of the guidance should be re-drafted to be more generic. For example, it could say something along the lines of:

“Under Chapters 1 and 2 of Part 4ZA of the Pension Schemes Act 1993 certain members are entitled to a statement of entitlement in relation to a cash equivalent or to notification of the right to a cash transfer sum. Under Chapter 1 of Part IV of the Welfare Reform and Pensions Act 1999, certain members are entitled to a statement of the cash equivalent of their benefits for the purpose of divorce or dissolution of a civil partnership.”

Issue 2

The calculation of a transfer value in respect of service from 1st April 2014 for a Pension (Taper) member shown on page 13 of the guidance uses the following formula:

$$D^{14} \times (1-\text{TERF}) \times \text{FACTOR}^P \times \text{ADJ}^{P-14} = H^{14}$$

The guidance provides an example transfer value calculation that uses this formula (see example 2 in Section 13). The Miscellaneous Amendments to the Guidance (dated November 2014) revised this example to remove the ADJ^{P-14} factor from both the factor table provided for this example and from the calculation itself. However, example 2 in Section 13 also refers to a factor, ADJ^{P-08} , which is not included in the page 13 formula. Consequently, we believe the formula on page 13 should read:

$$D^{14} \times (1-\text{TERF}) \times \text{FACTOR}^P \times \text{ADJ}^{P-08} = H^{14}$$

Issue 3

Examples 1 and 2 on pages 22-27 of the “Individual Incoming and Outgoing Transfers” guidance (dated 28th March 2014) are in respect of a member with service from 1990 onwards and yet the member has a pre-88 GMP, which is obviously not possible (unless there had been a transfer in).

At a meeting on 28th May 2015, GAD and DCLG agreed to make clarifying amendments to the guidance to deal with the matters raised above. The changes are to be included in the next iteration of the guidance which is due to be issued later this year.

Transfer in factors for members over age 64

Now that transfers in can be accepted for members aged 65 or over, transfer in factors for ages above 64 are required.

At a meeting on 28th May 2015, GAD and DCLG confirmed that the relevant factors would be issued shortly but that, in the meantime, any cases where factors are required should be forward to DCLG for onward transmission to GAD.

Transfer out for a member over Critical Retirement Age (CRA)

Paragraph 2.31 of the “Individual Incoming and Outgoing Transfers” guidance (dated 28th March 2014) says:

2.31 The transfer value for members who are over CRA and who request a transfer should be based on immediate pension factors as used in the guidance: “Pensioner Cash Equivalent Factors on Divorce”.

As detailed below, the LGPC Secretariat has sought clarification of whether paragraph 2.31 only really applies for Pension Sharing on Divorce transfer calculations (and so should be deleted) or, if that is not the case, whether the paragraph should be amended to refer to CRA / NPA (rather than just to CRA).

Standard transfer values (i.e. not for divorce purposes) have always been based on CETV methodology alone (i.e. the same calculation applied regardless of whether the member was under or over CRA).

Until 1999 transfer values for divorce purposes used CETV methodology for active members and deferred members and Pensioner CEVs for pensioner members.

In March 1999 DCLG issued a clarificatory e-mail which included the instruction (for the first time) to process divorce cases for active and deferred members who were over the earlier of their CRA/NPA as if they were pensioner members (i.e. the transfer would be a Pensioner CEV). The transfer for other active and deferred members would be a standard CETV.

This fed into the guidance issued in 2011 on calculating CEVs/CETVs for divorce purposes only. [The LGPC Secretariat is not clear whether this guidance is still extant (for active / deferred members). Only the second entry in the list of extant actuarial guidance published by DCLG in November 2014 (located [here](#)) makes any ongoing reference to the 2011 guidance and then only in relation to divorce CEVs for pensioner members].

Paragraph 2.31 of the 2014 guidance introduces a different methodology for calculating a standard transfer value (i.e. not for divorce purposes) for anyone over CRA.

There is no equivalent of that paragraph in the 2010 standard transfer guidance (so it appears to be a new instruction) and the instruction in paragraph 2.31 of the 2014 transfer guidance doesn't appear to be covered by the Club Memorandum.

Does this mean that the LGPS would calculate a Club transfer for those members over CRA on one actuarial basis and a receiving Club scheme accept it on a different actuarial basis? And what about Group 4 members (i.e. those not in the LGPS prior to 1st October 2006)? Paragraph 2.31 only refers to members who are over CRA (not over CRA / NPA). Group 4 members do not have a CRA but could have a transfer out after Normal Pension Age (subject to factors being provided for those over age 64).

In conclusion, should paragraph 2.31 be deleted (i.e. is it a paragraph that should only apply in CEVs for Pension Sharing on Divorce) or, if that is not the case, should the paragraph be amended to refer to CRA / NPA?

Subsequent to the meeting on 28th May GAD have provided the following response:

The Club factors and the Pensioner CEV factors are the same (where they overlap) and the methodology should give the same answer, so there should be no genuine divergence in results (subject to rounding).

However the "Individual Incoming and Outgoing Transfers" guidance as it stands does not provide everything required for the calculation, hence the reference to Pensioner CEV is currently needed.

Now that the new Club Memorandum is out we can consolidate this somewhat at the next factor review. For now the reference in paragraph 2.31 is correct and should stand. However to avoid confusion we might clarify that it should:

1. Apply to members over NPA as well as over CRA where relevant
2. Apply to only those tranches of benefit where current age > CRA/NPA, but for the tranches with current age < CRA/NPA then the main transfer guidance is to be used.

Which transfer factors should be used for Club transfers in and for transfers out?

Paragraph 1.12 of the "Individual Incoming and Outgoing Transfers" guidance (dated 28 March 2014) says:

1.12 Transfers within the public sector transfer Club are covered by the "Club Memorandum" published by Cabinet Office. This guidance is based on the most recent version of that Memorandum which was issued in March 2012 and known as PSTC5 and incorporated the new Club transfer factors that have applied since 1 January 2012. Administrators should comply with the

Club Memorandum at all times, and in particular, consider the impacts on Club transfers-in and/or transfers-out of any changes that are made to the Club Memorandum, regardless of whether those changes have been incorporated into any updated version of this guidance. Section 8.4 of this guidance explains how incoming service credits are calculated for members whose pensionable pay in the LGPS exceeds the Club earnings cap, consistent with the requirements of the Club Memorandum.

Now that the updated Club Memorandum has been issued (dated March 2015 but effective from 1st April 2015) the LGPC Secretariat has queried whether administering authorities should use the transfer factors included in that Club Memorandum (which, in contrast to the current LGPS “Individual Incoming and Outgoing Transfers” guidance (dated 28th March 2014), includes tables of factors for a range of Normal Pension Ages – whereas the current LGPS guidance includes a table of factors based on an NPA of 65 to which an adjustment factor for NPAs later than 65 is applied). From some sample calculations it appears that the calculation using the tables in the Club Memorandum for an NPA later than 65 produces an answer that is very slightly different to using the age 65 tables in the “Individual Incoming and Outgoing Transfers” guidance (dated 28th March 2014) to which an adjustment factor is applied. The method of GMP adjustment is also different in the two documents.

It would seem to make sense to use the tables and calculation methods set out in the Club Memorandum as sending and receiving Club schemes are then performing the calculations in the same way. It would also then seem appropriate for CETVs to non-Club schemes to also use the Club memorandum factors and calculation methods rather than those in the “Individual Incoming and Outgoing Transfers” guidance (dated 28th March 2014) so that transfers out are calculated on a consistent basis.

At a meeting on 28th May 2015, GAD and DCLG agreed that administering authorities should continue to use the factors and calculation methods in the “Individual Incoming and Outgoing Transfers” guidance (dated 28th March 2014) for the time being. Consideration will be given to moving towards alignment of the factors and calculation methods in the Club Memorandum from the next iteration of the guidance. Any such change will be notified well in advance in order to provide the Pensions Administration Software providers with enough time to amend their administration systems.

Club transfers and annual allowance calculations

Section 8 of the Club Memorandum gives a very brief overview of how Club transfers should be dealt with for the purposes of the Annual Allowance calculation. However, the LGPC Secretariat believes that detailed guidance will be required from the Secretary of State / GAD.

At a meeting on 28th May 2015, DCLG agreed to liaise with GAD and MOCOP and issue guidance as necessary.

Inter-fund Adjustments

The LGPC Secretariat has been asked to comment on whether or not it matters that the age used for an inter-fund adjustment out calculation is, in some cases, one year older than the age used to calculate the CARE pension credit from that inter-fund adjustment.

For example, take the case of a member who left Fund A with a deferred benefit on 28th February 2009 and re-joined Fund B on 1st October 2014 (with a break in active membership of public service pension schemes of more than 5 years i.e. had been in the private sector in the intervening period).

The member's birthday is on 3rd October. The member requested details on 18th April 2015 of what an inter-fund CETV from Fund A would purchase as CARE pension in Fund B. The inter-fund transfer out was calculated on 1st May 2015. The member elected for the transfer on 15th May 2015 and the inter-fund CETV from Fund A would, according to the GAD letter dated 13th March 2015 [here](#), be calculated based on a relevant date of 15th May 2015.

The inter-fund "transfer out" was calculated using a relevant date of 15th May 2015 when the member is age 50 (so uses age 50 factors and include PI to April 2015) whereas the amount of pension credited to the member's active CARE account would, be calculated based on a relevant date of 1st October 2014 (the start date in Fund B) and so use age 49 factors.

The amount of CARE pension purchased by the inter-fund CETV would be calculated as if the inter-fund CETV were a non-Club transfer in and it would be credited to the member's active pension account in 2015/16 (the Scheme year in which the transfer is received) as per regulation 23(6)(b) of the LGPS Regulations 2013. This is logical, as the inter-fund CETV includes PI to April 2015. Crediting the inter-fund CETV in 2014/15 would produce the wrong result – it would mean the CARE pension bought by the inter-fund CETV would receive HM Treasury revaluation too at one second after midnight on 31st March 2015, incorrectly resulting in double indexation.

This was discussed with GAD at the meeting on 28th May 2015 and it was agreed that, in the short-term, it does not matter that the age used for an inter-fund adjustment out calculation is, in some cases, one year older than the age used to calculate the CARE pension credit from that inter-fund adjustment. This is because, in the short-term, the financial effect is small (as the quantum of post-14 pension transferred is currently small) but will increase over time. Therefore, although this "issue" should be corrected as a matter of principle there is no need to do so before the next iteration of guidance. Pensions administration software suppliers and administering authorities might, nonetheless, like to note that there is likely to be a change in due course.

Trivial commutation factors from age 55 are required.

The amendment to paragraph 7 of Part 1 of Schedule 29 to the Finance Act 2004 relating to commutation periods beginning on or after 6th April 2015 means that trivial commutation from age 55 (assuming the member has no GMP liability) is now possible. An extension to Table A factors in the “Trivial commutation” guidance (dated 28th March 2014) is required.

At a meeting on 28th May 2015, GAD and DCLG confirmed that the relevant factors would be issued shortly. It should be noted that whilst the Scottish guidance issued in February 2015 does contain factors from age 55 (see <http://www.lgpsregs.org/images/Scotland/StatGuidance/2015-02-26TrivCommGuidance.pdf>), those factors cannot be used by administering authorities in England and Wales (due to different life expectancy in Scotland).

Application of a pension debit for a divorced member retiring on tier 3 ill-health where the Transfer Day is before 1st April 2014

The LGPC Secretariat has been asked how a pension debit should be applied in the case of a member retiring with a tier 3 pension and the Transfer Day in respect of the Pension Sharing Order was before 1st April 2014. In such a case:

- the “Application of a Pension Debit for Divorced Members” guidance dated 4th March 2013 should be used
- the member’s retirement grant payable upon the tier 3 ill-health retirement should be debited as set out in paragraph 3.50 of that guidance
- the reduction factors applied to the lump sum retirement grant debit RG_{ret} should be taken from Table A (see paragraph 3.51 of the guidance)
- the member’s pension should not be subject to any pension debit at the point of the tier 3 ill-health retirement (see paragraph 3.53 of the guidance). The debit should be applied to the member’s pension when either the member moves on to tier 2 ill-health, or (if the member’s tier 3 pension ceases) when their deferred pensioner benefits come back into payment.

Note that paragraph 3.53 of the guidance only relates to the debit to the member’s pension, not to the debit to the member’s lump sum retirement grant. As set out above, the debit to the lump sum retirement grant should be applied upon retiring with a tier 3 pension. It would have been clearer if paragraph 3.53 explicitly said that it did not apply to the debit to the member’s lump sum retirement grant.

So, as the lump sum retirement grant is payable immediately and the pension will not be brought into permanent payment until sometime in the future, the debit is applied to the lump sum retirement grant at the point of retirement and

the debit to the pension is not made until the pension is permanently brought into payment at some time in the future.

The reason why the debit is not applied to the pension at the point of retirement is that a tier 3 pension is initially only payable for a maximum of 3 years, whereas the amount of the debit is based on a lifetime pension.

Let's look at an example:

Member joined scheme in 1998 (so there is no GMP).
Pension sharing order applied to their benefits on 1 July 2008.
Active member retired on tier 3 ill-health on 27 January 2015 (aged 53).
Assume member meets 85 year rule at 60 and is a Group 3 member.
Assume member's suspended Tier 3 pension is brought back into payment at age 60.

Assume pre 1 April 2008 3/80ths lump sum at Transfer Day (i.e. effective date of the Pension Sharing Order) was £3,000
Assume PSO share was 10%
Assume PI between Transfer Day and April immediately preceding tier 3 ill-health retirement was 18.11% i.e. 1.1811
Debit to lump sum payable 28 January 2015: $£3,000 \times 10\% = £300 \times 1.1811 = £354.33 \times (1 - RGERF_{ret})$ where $RGERF_{ret}$ = Early retirement factor applied to the retirement grant debit
Paragraph 3.51 of the GAD guidance says that in the case of ill health retirement, $RGERF_{ret}$ can be found in Table A and in all other cases $RGERF_{ret}$ can be found in Table B. In the case of a tier 3 ill-health retirement, Table A should be used.

Assume pre 1 April 2008 (pre commutation) pension at Transfer Day was £1,000
Assume 1 April 2008 to 1 July 2008 (pre commutation) pension at Transfer Day was £20
Assume PI between Transfer Day and April immediately preceding age 60 is 34% i.e. 1.34
Debit to pension payable at 60:
 $£1,000 \times 10\% = £100 \times 1.34 = £134$
Plus $£20 \times 10\% = £2 \times 1.34 = £2.68 \times (1 - MEMERF_{ret})$ where $MEMERF_{ret}$ = Early retirement pension factor for taper membership for drawing benefits 5 years early can be found in Table A.

At a meeting on 28th May 2015, GAD and DCLG agreed to make clarifying amendments to the guidance to deal with the matter raised above. The changes are to be included in the next iteration of the guidance which is due to be issued later this year.

Limit on Additional Cash Commutation

Given the current position relating to tax free cash from AVCs, as set out in [Bulletin 126](#) the LGPC Secretariat believes that in the guidance on the “Limit on Additional Cash Commutation” dated 26th March 2014:

- a) the words “(but otherwise it is excluded, by virtue of regulation 33(2) of the 2013 Regulations)” should be deleted from the end of paragraph 2.7, and
- b) the words “and the AVC arrangements were entered into prior to 1 April 2014” should be deleted from paragraph 2.9(a), and
- c) paragraph 2.9(b) should be deleted.

Also, paragraph 2.11 of the guidance says:

2.11 If a member also has AVCs, then HMRC also provides a flowchart that should be followed – see

<http://www.hmrc.gov.uk/manuals/rpsmanual/RPSM09104490.htm>

However, the HMRC guidance on that webpage comes with a caveat under “Limitations” which says *“This method should not be used where the lump sum is not derived from the commutation of pension, e.g. public sector schemes that calculate lump sums and pensions separately.”*

So the instruction in paragraph 2.11 of the “Limit on Additional Cash Commutation” guidance should have a similar caveat inserted as it has been in the corresponding guidance for the LGPS in Scotland.

Subsequent to the meeting of 28th May 2015, GAD have confirmed that the wording of paragraphs 2.7 and 2.9 of the guidance on the “Limit on Additional Cash Commutation” dated 26th March 2014 reflects the wording of the extant regulations. The LGPC Secretariat takes this to mean that updated guidance to reflect the line set out in Bulletin 126 cannot be issued until regulation 33(2) of the LGPS Regulations 2013 is amended to change the word “excluding” to “including”.

GAD have accepted that paragraph 2.11 of the “Limit on Additional Cash Commutation” guidance should have a caveat inserted similar to that shown in the HMRC website and this will be included in the next iteration of the guidance.

Late Retirement

Paragraph 1.2 of the “Late Retirement” guidance (dated 26th March 2014) says the guidance applies to Councillors. Paragraph 2.1 of the guidance says pensions are to be increased if taken after the following ages:

- For service before 1st April 2014: age 65
- For service on or after 1st April 2014: State Pension Age, or if higher, age 65

However, this needs to be caveated for councillor members by amending the second bullet point to read:

- For service on or after 1st April 2014: State Pension Age, or if higher, age 65 (except in the case of councillor members, where the age will always be age 65)

Subsequent to the meeting on 28th May 2015, GAD confirmed that the suggested caveat is correct and that for councillor members an actuarial increase should be applied where benefits are taken after age 65. An appropriate amendment will be included in the next iteration of the guidance.

Terry Edwards
Senior Pensions Adviser
LGA
16th July 2015

Useful Links

[LGA Pensions page](#)

[LGPS members' website](#)

[LGPS 2014 members' website](#)

[LGPS 2015 members' website](#)

[LGPS Advisory Board website](#)

[LGPS 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](#)

Pensions Section Contact Details

Jeff Houston (Head of Pensions)

Telephone: 0207 187 7346

Email: jeff.houston@local.gov.uk

Terry Edwards (Senior Pensions Adviser)

Telephone: 01954 232 834

Email: terry.edwards@local.gov.uk

Tim Hazlewood (Pensions Training & Development Manager)

Telephone: 01455 824 850

Email: tim.hazlewood@local.gov.uk

Con Hargrave (Pensions Adviser)

Telephone: 0207 664 3176

Email: cornelius.hargrave@local.gov.uk

Liam Robson (Pensions Analyst)

Telephone: 0207 664 3328
Email: liam.robson@local.gov.uk

Elaine English (LGPS Executive Officer)

Telephone: 0207 187 7344
Email: elaine.english@local.gov.uk

Alison Hazlewood (Part-time Administration Assistant - Training & Development)

Email: alison.hazlewood@local.gov.uk

Distribution sheet

Pension managers (internal) of administering authorities
Pension managers (outsourced) and administering authority client managers
Local Government Pensions Committee
Trade unions
CLG
COSLA
SPPA
Regional Directors
Private clients

Copyright

Copyright remains with Local Government Group. This Bulletin may be reproduced without the prior permission of LG Group provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

Disclaimer

The information contained in this Bulletin has been prepared by the LGPC Secretariat, a part of the LG Group. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the LG Group for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Bulletin. Whilst every attempt is made to ensure the accuracy of the Bulletin, it would be helpful if readers could bring to the attention of the Secretariat any perceived errors or omissions. Please write to:

LGPC
Local Government Group
Local Government House
Smith Square
London, SW1P 3HZ

or email: terry.edwards@local.gov.uk
tel: 01954 232834