

Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 139 – January 2016

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

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

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LGPS England and Wales

Exit payment recovery consultation response

In [Bulletin 138](#), we referred to the short consultation period that the Government had commenced on the recovery of exit payments (as opposed to the cap on exit payments). We have since [responded to the consultation](#) outlining our concerns on the revised proposals, which as reported in the last bulletin, have been significantly changed from those originally consulted on in 2014.

The Government plan for the recovery of exit payments to come into effect in the not too distant future, from April 2016. Once we have a copy of the final regulations, we will circulate these to all fund contacts as soon as possible so that the impacts of the regulations may be considered.

LGPS Scotland

Amendment Regulations 2016/32

Following SPPA's consultation period in October 2015, the Local Government Pension Scheme (Scotland) Amendment Regulations 2016 have been laid before the Scottish Parliament, coming into force on 1st April 2016 (but, in the most part, effective from 1st April 2015). The amendments largely relate to the employer cost cap and the appointment of the LGPS Scotland scheme actuary.

Any necessary changes to LGPS guides or documentation will be made as necessary following the amendments to the regulations, and the timeline Regulations will be updated in due course.

Revision to LGPS 2015 ill health certificate

[Bulletin 124](#) (March 2015) included a full suite of sample ill health certificates for the LGPS in England and Wales and for the LGPS in Scotland. As a result of amendments made by the LGPS (Scotland) Amendment (No. 2) Regulations 2015 [SI 2015/448] to regulations 31(9) and 37(3) of the LGPS (Scotland) Regulations 2014 (retrospective to 1st April 2015) it is necessary to amend the information shown in paragraphs 22 to 24 of that Bulletin and to amend one of the certificates contained in the Bulletin.

Paragraphs 22 to 24 of Bulletin 124 read as follows:

From what date is a deferred pension awarded under the 2015 Scheme payable if it is subsequently brought into payment on the grounds of permanent ill-health?

22. A member who has a deferred pension which was awarded under the 2015 Scheme may, before attaining their Normal Pension Age, request that the deferred pension is paid early if he / she has, because of ill-health or infirmity of mind or body, become permanently incapable of discharging efficiently the duties of the employment he / she was engaged in at the date of becoming a deferred member and is unlikely to be capable of undertaking gainful employment before reaching Normal Pension Age.

23. *Before determining whether to agree to the request the former employer or, where that employer is no longer a Scheme employer, the appropriate administering authority, must obtain a certificate from an IRMP who has been approved by the administering authority showing whether, in the opinion of the IRMP, the member is suffering from a condition that renders him / her:*

- *permanently incapable, because of ill-health or infirmity of mind or body, of discharging efficiently the duties of the employment he / she was engaged in at the date of becoming a deferred member, and*
- *whether, as a result of that condition, the member is unlikely to be capable of undertaking gainful employment before reaching Normal Pension Age.*

24. *Where the former employer or, where that employer is no longer a Scheme employer, the appropriate administering authority, decides to accede to the member's request for early payment, regulation 31(9) of the LGPS (Scotland) Regulations 2014 provides that the pension is payable from the date on which the former employer (or, where relevant, the appropriate administering authority) decides to accede to the request (and not from the date of the member's request or the date the IRMP signed the certificate).*

The information in paragraph 24 is amended, retrospectively to 1st April 2015, to now read:

24. *Where the former employer or, where that employer is no longer a Scheme employer, the appropriate administering authority, decides to accede to the member's request for early payment, regulation 31(9) of the LGPS (Scotland) Regulations 2014 provides that the pension is payable from the date of the member's request for early payment on the grounds of permanent ill-health or infirmity of mind or body and not:*

- a) *from the date on which the former employer or, where relevant, the appropriate administering authority, decides to accede to the request (which had been the case prior to the amendment made to the LGPS (Scotland) Regulations 2014 by Scottish Statutory Instrument 2015/448), or*
- b) *from the date the IRMP signed the certificate.*

As this amendment is retrospective to 1st April 2015, Scottish administering authorities will need to determine if they have any cases where:

- i) *a member left, after 31st March 2015, with a deferred benefit,*
- ii) *subsequently had that benefit paid on ill health grounds as from the date the employer determined to accept the early payment request, and*
- iii) *the date of the employer's determination was after the date of the member's application for early payment.*

In such cases, the administering authority will need to recalculate the pension as if it had been paid from the date of the member's application for early payment and pay the arrears of pension due for the period between that date and the day before the pension had originally been brought into payment.

The amendment to the LGPS (Scotland) Regulations 2014 has also necessitated a change to the sample ill health certificate shown on pages 77 to 80 of Bulletin 124

(Example Medical Certificate for a Deferred Beneficiary who ceased membership as an employee or councillor on or after 1 April 2015 – Scotland). The updated certificate is attached as [appendix 1](#) to this Bulletin.

Scheme Advisory Board England and Wales

Opinion on status of local pension boards in local authorities

At their January meeting, the Scheme Advisory Board for England and Wales considered a legal opinion on the status of local pension boards within local authorities.

The content of the opinion may have some implications for instances where a fund has a joint pensions committee and pension board and the Scheme Advisory Board's guidance is currently being reviewed to determine whether any amendments may be needed.

New State Pension

Special bulletin on ending of contracting out

During February, we will be issuing a special bulletin on the ending of contracting out and the introduction of the new state pension. This will contain:

- Updated versions of the member and employer Q&As that we have previously published on the ending of contracting out/ new state pension,
- Sample wording for funds to use to fulfil their statutory obligation to inform their members that they, from April 2016, will no longer be participating in a contracted out scheme, and
- Links to the range of documents that have already been produced by DWP and other parties in respect of the reforms.

The new state pension Q&A for employees has also been updated and tracked and clean versions were circulated via email by Lorraine Bennett on 1st February. The updated versions can be found on the English and Welsh [Employees' Guides](#) section of www.lgpsregs.org as well as on the Scottish [Employees' Guides](#) section of www.lgpsregs.org.

Lorraine's email also contained a sample letter for funds to send to their employees confirming that, from April 2016, the LGPS will no longer be contracted out. This sample is attached as [appendix 2](#).

HM Treasury contracting out 'sensitive' mini-working group - decisions required

We still await decisions from HM Treasury on the recommended tolerances to adopt for contracted out Scheme reconciliation and on the extent to which public service pension schemes may have to pick up the pensions increase on GMP from April 2016.

HMRC

Cut off date for expressions of interest in the Scheme Reconciliation Service (SRS) – 5th April 2016

The LGPC Secretariat have been asked to relay the below message from HMRC:

A question has been raised asking why HMRC need a 5th April cut-off date for expressing an interest in SRS when the service doesn't end until December 2018. We need a cut-off date because we need an accurate figure of the number of schemes reconciling so that we can adequately prepare for and resource the scheme queries submitted from 6th April 2016 to October 2018 so that they can be resolved by the December 2018 service end date.

HMRC Pensions Schemes Newsletter no. 75

On 28th January 2016, HMRC published [pension schemes newsletter no. 75](#) and we draw particular attention to the following sections:

- section 2b, which relates to payment of deferred benefit lump sum death benefits (DBLSDBs). Currently, where a member dies before age 75 and such a payment is not made within two years of the death, this will be treated as an unauthorised payment and should not be reported under RTI. From April 2016, this will not be treated as an unauthorised payment, but instead tax would need to be paid at the recipient's marginal rate. Such payments would need to be reported under RTI.
- section 5, which provides information on individual protection 2016 and fixed protection 2016 (see below article for more), and
- section 6, which contains information on the alignment of the pension input period and the annual allowance taper.

Countdown Bulletin 13 – January 2016

On 2nd February 2016, HMRC issued their latest [Countdown Bulletin](#) (no. 13), including sections on:

1. Scheme Reconciliation Service (SRS)
2. Pension Forums November / December 2015
3. Guaranteed Minimum Pension (GMP) service - testers required
4. Update on SRS from the Customer Relations (CR) Manager
5. Department for Work and Pensions Update

Fixed Protection 2016

The HMRC pension schemes newsletter referred to above includes, in 5b, a short section on retaining Fixed Protection 2016 (FP2016). It is our understanding that, based on the content of the Finance Bill 2016, FP2016 will be lost in similar circumstances to FP2012 and FP2014, namely where:

- a) there is an increase in the benefit amount, which there will be if a member stays in the Scheme, because any pre-14 membership will go up in line with any pay rise and CARE benefits will continue to accrue, and
- b) the increase in the benefits is more than CPI, which it will be this year because September 2015 CPI was less than zero (and is therefore treated as nil for these purposes).

Scheme members intending to rely on FP2016 need to be aware that they will have needed to stop building up benefits by 5 April 2016.

Other News and Updates

Employee contribution bandings 2016/17

The LGPC Secretariat have received a number of queries from funds, employers and payroll providers enquiring what the employee contribution bandings will be for 2016/17 in both the LGPS in England and Wales and the LGPS in Scotland.

It is our understanding that, on the basis of both the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014, the employee contribution bandings for 2016/17 will remain the same for both schemes as they have been for 2015/16. However, we await formal confirmation of this from both DCLG and SPPA.

Regulation 9 of both sets of regulations state that the employee contribution bands are to be increased as if they were pensions under the Pensions (Increase) Act 1971. It has been Government policy that pensions which are increased under the 1971 Act are increased in accordance with the prior September's CPI figure, which in September 2015 was -0.1%. As pensions cannot be reduced under the 1971 Act, the negative increase would not apply, and pensions would instead be 'increased' by 0.0% - i.e. remain static.

Commutation and revaluation of benefits

In [Bulletin 126](#), we gave our view on whether the revaluation that occurred at one second past midnight on 31st March 2015 in the LGPS in England and Wales counted towards the amount of pension that a member retiring, for example, on 31st March 2015, could commute. Further analysis of the relevant legislation has led us to take a different view of the technical position to that we outlined in that bulletin.

Where an active member retires on, say 20th February 2016 and all the paperwork required to process the benefits is received on, say 3rd April 2016, that would be the date of the BCE. The member's benefits would include the Treasury Order revaluation applied at one second after midnight of 31st March 2016 and so the member could, under regulation 33, commute up to 25% of the value of benefits at that BCE.

However, if all the necessary paperwork had been received on 26th February 2016 that would be the BCE date and the member would, at that time, only have been able to commute up to 25% of the value of the benefits at that BCE. The subsequent application of the Treasury Order at one second after midnight of 31st March 2016 would constitute a second BCE and so the member should, technically, be given an option to commute up to 25% of the increase in value of the CARE pot resulting from the implementation of the Treasury Order.

However, due to the timing of the Treasury Order and the Pension (Increase) Review Order it would be virtually impossible to give the member that option i.e. the PI programme is run after the March payroll has been run, the Treasury Order is not applied until one second after midnight of 31st March and then the April payroll is run which produces a very tight, virtually impossible, timeline i.e. the administering authority would have to apply the Treasury Order, calculate the increase in value, write to the member to give them the option of commuting up to 25% of the increase in value, get the member's additional commutation decision before the April payroll is closed and then overwrite the PI that had been calculated when the PI programme was run following the March payroll.

In order to avoid this the LGPC Secretariat is seeking an amendment to regulation 33 of the LGPS Regulations 2013 and to regulation 32 of the LGPS (Scotland) Regulations 2014 to provide that the increase in value of a member's CARE pot derived from the

application of a Treasury Order at one second after midnight of the 31st March following the date of cessation of active membership is excluded from the amount of pension that the member can commute under regulation 33. Note that this amendment would also apply to deferred members drawing the deferred pension (i.e. having a BCE) in a Scheme year subsequent to the one in which they ceased to be an active member.

Tell Us Once

The launch of Tell Us Once has suffered further delays and has now been pushed back into February. Attached as [appendix 3](#) is a short summary from DWP of the main benefits of joining Tell Us Once and the steps needed to onboard before the service goes live.

If you are still yet to be fully set up on the system, we would be very grateful if you could continue to make efforts with Atos and your IT sections to fully onboard to the DWP system.

As you will be aware, you will also need to have uploaded your fund's membership data into the [LGPS Database](#) in order to be able to participate in Tell Us Once and if you have not yet done this, it would be much appreciated if you could do this as soon as possible.

Public service pensions history

In [Bulletin 137](#) we reported that the NHS pension scheme were planning on writing to their members asking them, where relevant, to obtain verification from their prior public service pension scheme that they would be eligible to accrue benefits in the open final salary section of the NHSPS. We understand that these forms have now been sent to NHSPS members, and funds may already have started to receive these.

In the bulletin, we reported that one of the conditions to be satisfied for this protection to apply was:

“that the member was an active member of the LGPS on 31st March 2012 and on 1st April 2012 and if the member was 10 years or less from the normal retirement age applicable to the member under the LGPS on that date”.

However, this was slightly incorrect, and should have stated:

“that the member was an active member of the LGPS on 31st March 2012 and on 1st April 2012 was 10 years or less from the normal retirement age applicable to the member under the LGPS on that date”.

LGPC fund contacts

We would be grateful if you could review your fund's contacts on the following webpages and let elaine.english@local.gov.uk know if any updates needs to be made.

- [LGA pensions website](#) [pensions manager contact details]
- [LGPS member website](#) [contacts details for members]

Please also contact Elaine if you would like to update the contacts we hold for your fund on the LGPC distribution list.

Updates to LGPC documents

During January, the following documents were updated. The updated versions are available on www.lgspregs.org. The updates to the Freedom and Choice technical note include sample AVC discharge forms.

England and Wales

Aggregation leaflet – [version 1.6](#)

Freedom and Choice technical note – [version 1.5](#)

Scotland

50/50 employer guidance note – version 1.2

50/50 sample election form – [version 1.2](#)

HR Guide – [version 1.6](#)

Payroll guide – [version 1.7](#)

APC notes – [version 1.2](#)

Aggregation guide – [version 1.4](#)

Freedom and Choice technical note – [version 1.5](#)

Training

During February and March, a number of ‘Understanding... Auto-enrolment and the LGPS’ workshops will be undertaken, further details of which are contained in [Circular 294](#). The London workshop is now fully booked but you may add your name to the waitlist by emailing elaine.english@local.gov.uk who will advise if any places become available.

UNDERSTANDING...AUTO-ENROLMENT & THE LGPS

09 February	Cardiff	Marriott Hotel
16 February	London	Local Government House - FULLY BOOKED
23 February	Birmingham	Jury's Hotel
01 March	Liverpool	Marriott Hotel
08 March	Leeds	Marriott Hotel
15 March	Exeter	Rougemont Hotel

For further information on the automatic enrolment workshops, including intended audiences and a brief overview of the course contents, please click on the relevant links above or go direct to [Circular 294](#).

Legislation

United Kingdom

SI	Reference Title
2016/39	The Pensions Act 2014 (Pension Sharing on Divorce etc.) (Transitional Provision) Order 2016

Scotland

SSI	Reference Title
2016/32	The Local Government Pension Scheme (Amendment) Regulations 2016

Northern Ireland

Act

2016/1

Reference Title

Pension Schemes Act (Northern Ireland) 2016

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.

[Recognised Overseas Pension Schemes](#) approved by HMRC and who agreed to have their details published.

[The Timeline Regulations](#) for Final Salary Scheme

[The Timeline Regulations](#) for Career Average in England and Wales

Pensions Section Contact Details

If you have a technical query, please email query.lgps@local.gov.uk and one of the team's LGPS pensions advisers will get back to you as soon as possible.

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Terry Edwards (Senior Pensions Adviser)

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Distribution sheet

Pension managers (internal) of administering authorities
Pension managers (outsourced) and administering authority client managers
Local Government Pensions Committee
Trade unions
CLG
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