

Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 146 – June 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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Fund transactions briefing note

On 21st June, the LGPC Secretariat circulated a briefing note concerning fund transactions data that it is proposed funds in England and Wales will be required to hold from 1st April 2017 onwards. The briefing note is attached to this bulletin as [appendix 1](#).

It is proposed that funds will need to hold more refined transactions data in order that GAD may be able to undertake the cost control calculations they are required to perform under the Public Service Pensions Act 2013.

In general, the new requirements will mean that most transactions in and out of the pension fund will need to be broken down into the following categories:

- Elements relating to pre-April 2014 benefit accrual,
- Elements relating to post-March 2014 main section benefit accrual, and
- Elements relating to post-March 2014 50/50 section benefit accrual.

NB: There are some important exceptions to this categorisation – please see the briefing note for more information.

The data will need to be supplied to GAD for the first time during 2019 to feed into GAD's 2019 cost control calculations. When supplied in 2019, the data will need to be provided for the 2017/18 and 2018/19 scheme years.

Also enclosed with the briefing note was a draft data capture spreadsheet – a similar version of which funds will need to complete when supplying the data to GAD.

We strongly advise LGPS pension funds in England and Wales to review the proposed new requirements, as outlined in the briefing note, and to feedback comments by the end of Friday 15th July.

Consultation on amendment regulations

As reported briefly in [bulletin 145](#), DCLG have commenced a consultation on amendment regulations for the LGPS in England and Wales. The LGPC Secretariat are currently reviewing the document in order to prepare our response, which will be submitted before the closure of the consultation period on the evening of 19th August.

Below is a short summary of some of the proposals included in the consultation.

The Underpin

The consultation contains draft regulation 25, which amends regulation 9 of the LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014. If introduced, the amended regulation would mean that LGPS administering authorities would have to provide underpin protection to certain individuals who transferred into the LGPS from another public service pension scheme, but who were never in the LGPS's final salary section.

As currently drafted, an individual would gain this protection if all of the following applied:

- A transfer payment is received into the 2014 Scheme in respect of a person from a different public service pension scheme, and
- The transfer includes service which would have entitled the person to final salary benefits in that scheme, and
- Since ceasing active membership in the scheme from which the transfer was received, the person has not had a continuous break in active membership of any public service pension scheme for more than five years, and
- That person would have met the qualifying criteria set out in regulation 4(1) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 if they had been an active member of the LGPS 2008 Scheme.

Given:

- the administrative burden of establishing the individuals to whom this would apply, and
- the fact that this protection may provide a greater level of protection than the individual would have received in their former public service scheme, and
- that this is a retrospective protection that was not initially factored into the scheme's design,

the LGPC Secretariat plan to strongly oppose this change in our consultation response. LGPS administering authorities concerned about this change may also wish to respond along similar lines.

Fair Deal

The consultation proposes a new system of pension protection for situations where an LGPS member's employment is compulsorily transferred out of the public sector. The broad effect of these changes is to bring pensions protection in the LGPS in line with [Fair Deal in the rest of the public sector](#) – i.e. if a LGPS member's employment is compulsorily transferred out of the public sector, they retain their eligibility for the LGPS.

Specifically, the consultation document / draft regulations say the following (please note in the below list, all references to Fair Deal are references to the proposed LGPS Fair Deal arrangements (to replace the 2007 Directions Order) and not New Fair Deal in the wider public sector):

- A member who is:
 - eligible to be a member of the Scheme,
 - employed by an employer to whom Fair Deal applies, and
 - compulsorily transferred to a different employer who does not offer a public service pension scheme,
 is protected by Fair Deal and is a 'protected transferee'.
- Fair Deal protection applies to all scheme employers except those participating in the LGPS under paras 6, 7 or 14 of part 1 of schedule 2 to the 2013 Regulations (i.e. further education bodies, higher education bodies and police and crime commissioners).
- Admitted bodies (bodies under part 3 of schedule 2 of the 2013 Regulations) and designating bodies (bodies under part 2 of schedule 2 of the 2013 Regulations) are therefore covered by Fair Deal, but only to the extent that an employee of an admitted body or designating body is 'eligible to be a member of the scheme'.

- A new category of employer is introduced – a ‘protected transferee employer’. A ‘protected transferee employer’ is the new employer of an individual who has been transferred under the LGPS’s Fair Deal regulations.
- A protected transferee employer must enter into an admission agreement with the LGPS administering authority to fulfil its obligations under Fair Deal. To do this, an LGPS administering authority must make a ‘determination’ to admit the body into the scheme. In practice, the determination is made by completion of an admission agreement.
- If the new employer is a designating body, then there is no need for the employer to enter into an admission agreement, but the protected transferees must be designated as eligible for the LGPS in their new employment.
- The existing process via which an employer enters into an admission agreement with a fund is retained and there is no alteration to the status of any existing admission agreements previously entered into by LGPS administering authorities.
- A risk assessment for a protected transferee employer would need to be undertaken when they apply to join the scheme. In the event that the risk assessment warrants it, a bond, indemnity or guarantee would have to be provided in respect of that employer’s participation in the scheme.
- An administering authority would no longer have to inform DCLG each time they enter into an admission agreement with an employer. However, an administering authority must maintain and publish a list of all the ‘determinations’ they have made (i.e. a list of all the employers they have entered into an admission agreement with).
- It is not currently intended that individuals already transferred out under the terms of the Directions Order (and who were transferred to a broadly comparable scheme at that time) would be protected under the LGPS’s Fair Deal regulations at subsequent re-tenders.
- The Directions Order will be revoked at some point in the future.

Freedom and Choice

Following the introduction of Freedom and Choice in April 2015 allowing for greater flexibility in how defined contribution scheme members may choose to access their pension savings, the consultation proposes greater flexibility in how individuals may access their AVCs.

Specifically, it is proposed that active, deferred and retired members of the LGPS between the ages of 55 and 75 will be able to access their AVC savings either wholly or in part via payment of one or more uncrystallised funds pension lump sums (UFPLSs).

An UFPLS is a type of payment introduced by the Finance Act 2015 and has the following characteristics where paid to an individual under the age of 75:

- For an UFPLS to be paid, a person must have some of their lifetime allowance remaining.
- A member may receive an UFPLS from their AVC pot before or after they have crystallised their main scheme benefits and, indeed, whilst they remain an active member.
- 25% of each UFPLS payment is made tax free with the remainder taxed at the individual’s marginal income tax rate.

- If a person takes an UFPLS, they trigger the money purchase annual allowance (MPAA) rules, meaning that their tax-privileged savings into money purchase pension arrangements will be capped at £10k per pension input period.

The consultation also proposes amending the LGPS Regulations 2013 to allow members with AVC arrangements the option to defer taking AVC benefits up to the age of 75.

HMRC

Taxation of Defined Benefit Lump Sum Death Benefits (DBLSDBs)

In bulletins [139](#) and [141](#) we included articles outlining changes to the taxation of defined benefit lump sum death benefits (DBLSDBs) paid from 6th April 2016 onwards.

Specifically, we said that from 6th April 2016 onwards, where a DBLSDB is paid:

- a) in respect of a member who died before age 75, and
- b) the payment is made by the pension scheme more than two years after the pension fund first knew of the death (or more than two years after they could first reasonably have known of the death),

such a payment would no longer be considered unauthorised and would be taxable at the recipient's marginal rate.

However, our understanding has since moved on and HMRC confirm in [their guidance](#) that the tax treatment of the payment from 6th April 2016 will depend on how and to whom the payment is paid – i.e. the special lump sum death benefits charge of 45% may apply in certain circumstances:

“Payments on or after 6 April 2016

For payments other than trivial commutation lump sum death benefits, the amount you deduct depends on who you make the payment to. You should deduct either:

- *Income Tax using the [emergency tax code](#) if paid directly to an individual (they may be able to [reclaim a repayment](#) if they've paid too much tax)*
- *the [special lump sum death benefits charge](#) if paid to:*
 - *someone other than an individual*
 - *an individual who is receiving the payment in their capacity as a trustee, personal representative, director of a company, partner in a firm or member of a limited liability partnership*

If the lump sum was paid to a trust, and then pays it to a beneficiary, the [beneficiary can claim back some or all of the tax.](#)”

Despite what the above says, it appears that the guidance regarding the deduction of income tax using the emergency tax code may be an over-simplification and further guidance is contained in HMRC's [Pensions Tax Manual](#) on this point:

“Operating PAYE on the recipient’s pension income

Where the recipient is liable to the income tax charge, it is treated as the recipient’s pension income and tax deducted under PAYE by way of the RTI process. The rate of tax is the recipient’s marginal rate of tax for the tax year in which the lump sum is paid. So, if the individual is a basic rate taxpayer, the rate is basic rate and if the individual is a higher rate taxpayer the rate is the higher rate applying to the individual.

The pension payer should use the following PAYE codes:

- If the recipient has a P45 from a previous source/employment dated on or after 6 April in the current year, the scheme administrator should operate the code on the P45 on a Month 1 basis.*
- If a scheme administrator already makes payments to the recipient and has a tax code for those payments, that tax code should only be used for additional payments if the payments are being made at the same time. If more than one payment in a month is made and the same tax code is operated against each of those payments it could give the benefit of the tax allowances and rate bands twice.*
- For other trivial commutation lump sum death benefits and winding up lump sum death benefits, use the BR code.*
- In all other circumstances, scheme administrators should use the emergency code on a Month 1 basis against the payment and HMRC will issue a tax code to operate against future payments.*

Further guidance on how to operate PAYE correctly on these lump sums can be found in [CWG2 - Employer’s further guide to PAYE and NICs \(GOV.UK\)](#).”

Given the changes in the taxation of DBLSDBs, at the [March 2016 meeting](#) of Technical Group, it was agreed that in situations where a DBLSDB is payable, funds should make efforts to pay the amount in a manner in which the 45% tax charge would not apply.

GMP checker service

On 21st June, HMRC sent an email to pension scheme contacts confirming that the [GMP checker](#) service (formerly known as the GMP micro service) now accepts bulk uploads. The email stated the following:

“Bulk member functionality

The ability to upload a bulk file containing numerous members is now available. When you access the GMP Checker you can choose whether to request a single calculation or upload a bulk file.

Once processed the bulk file will be held on the GMP Checker for 30 days for you to view. The results will be split as follows:

- A file containing calculations and errors for all members*
- A file containing only calculations*
- A file containing only errors*

- *A file containing contribution and earnings information*

This is the first iteration of the bulk facility and may change, please bear this in mind if you are developing an IT programme to produce or receive bulk files.”

HMRC countdown bulletin 18

HMRC have published [issue 18](#) of their countdown bulletin covering the ending of contracting out. The bulletin includes frequently asked questions on the GMP checker service referred to in the above article and confirms dates of upcoming Pension Forums HMRC are holding in September in Newcastle, London and Leeds. A contact email address is provided for administrators wishing to attend one of these Pension Forums.

HMRC pension schemes newsletter 79

HMRC have published [issue 79](#) of their pension schemes newsletter. Amongst other things, HMRC confirm that their [Pensions Tax Manual](#) has recently been updated to include guidance on the modified reporting requirements arising from the introduction of the annual allowance taper.

DWP

Contracted-Out Pension Equivalent (COPE)

As reported in [bulletin 137](#), last year DWP introduced a new term intended to help communicate the changes made to the State Pension from April 2016. This is known as the COPE.

The COPE is intended to give certain individuals (those who at some point prior to 6 April 2016 were contracted out of the additional state pension (SERPS/ S2P)) an estimate of the minimum amount of pension their occupational/ personal pension scheme(s) should provide in respect of the time they were contracted-out of the additional state pension. It is now being included on State Pension statements.

However, the COPE is an estimated figure and has no direct relation to the benefits paid by individual pension schemes, including the LGPS.

Additionally, the COPE is a single figure covering all of an individual's contracted-out membership, so where a member has had contracted-out membership in more than one pension scheme (or more than one pension fund), it is possible that a person's LGPS pension will appear lower than the COPE.

A number of LGPS pension funds have informed the LGPC Secretariat that they have begun to receive queries from their membership asking about the COPE, in particular its calculation, and that some members have mentioned that DWP directed them towards their occupational pension scheme with these questions.

In the view of the LGPC Secretariat, these are not questions which LGPS funds will be able to answer. We have contacted DWP to ensure that such questions are not being directed back to occupational pension schemes and to check that members should indeed be contacting DWP with their COPE questions.

Government response to report on new state pension

On 22 June, the Work and Pensions Committee published the [Government's response](#) to its report on the communication of the new state pension. The Government will be following the Committee's recommendation and write directly to those people who do not meet the minimum qualifying period for the new state pension.

Pension Tracing Service

On 9 May DWP launched a new, free, Pension Tracing Service to help people find their lost pension savings. Further information can be found on the [DWP website](#).

Other News and Updates

TPR public service pensions scheme return

The Pensions Regulator is soon to commence its annual scheme return process for public service pension schemes, which each LGPS fund has a legal duty to complete. Please see the below message from the Regulator.

"The Pensions Regulator (TPR) is calling on public service pension scheme managers to prepare for and submit their annual scheme return which will be issued towards the end of June.

Scheme managers have a legal duty to supply the regulator with certain information via an annual scheme return.

The return can be completed via TPR's online service, Exchange and once you receive your scheme return notice, you'll have six weeks to complete it.

You can find out more about the scheme return and the information required on TPR's website <http://www.thepensionsregulator.gov.uk/public-service-schemes/reporting-duties.aspx>."

PLSA survey of LGPS pension funds

The PLSA is currently undertaking its annual survey of LGPS pension funds – please see the below message from PLSA.

"PLSA is currently collecting data for its Annual Survey; you may know it better as the NAPF Annual Survey but the purpose remains the same: providing crucial insights into the changing landscape in which our members operate.

This year we've made further changes to the Local Government Pension Scheme and hope that you will find it even easier and quicker to complete with just 23 questions. The deadline for responses is Friday 8th July 2016.

The survey must be completed online. The link to complete the survey will have been mailed to your main contact with the PLSA, most likely your pension manager or equivalent. However if you have not received your link please email Elizabeth.spratt@plsa.gov.uk to obtain the link to complete your survey online.

If you think you may not be able to submit your response by the 8th July, please email [the PLSA directly](#) who will be able to advise on extensions."

Civil Service Pensions Club transfer guide for members

An updated version of a Civil Service Pensions guide for members on the Club transfer has been published on the [Public Sector Transfer Club section](#) of the Civil Service Pensions website. Whilst intended for members of the civil service pension schemes, the document may be of use to LGPS pension funds in case they receive questions from scheme members with respect of the transfer club.

However, we draw attention to the answer to the question ‘What are the time and age limits for applying for a Club transfer?’ in case this causes any confusion. The guide says an individual must ‘apply’ for a transfer within 12 months of joining the new Club scheme to be entitled to a transfer under Club rules. However, the meaning of ‘apply’ as used here is ambiguous. For clarity, under paragraph 4.1 of the [Club memorandum](#), the individual must make a formal ‘election to proceed’ within 12 months of joining the new Club scheme to be entitled to a transfer under Club rules (i.e. a request for an estimate or an enquiry is not sufficient).

Updates to the annual allowance and lifetime allowance factsheets

The annual allowance and lifetime allowance factsheets have been updated to reflect the fact the 6th April has now passed. Clean and tracked versions of the documents are available at <http://www.lgpsregs.org/index.php/guides/employees-guides> for the LGPS in England and Wales and at <http://lgpsregs.org/index.php/scotland/employees-guides> for the LGPS in Scotland.

Updates to Technical Guides

During June 2016 the following technical guides, available in tracked and non-tracked versions) have been published and can be found at <http://www.lgpsregs.org/index.php/guides/administration-guides-to-the-2014-scheme> for the LGPS in England and Wales and at <http://lgpsregs.org/index.php/scotland/admin-guides> for the LGPS in Scotland: -

- Version 1.3 of the Revaluation guide which has been revised to provide further information on instances of negative revaluation and to take into account the latest Secretary of State actuarial guidance issued by DCLG in May 2016, and
- Version 6.1 of the Automatic Enrolment full and brief guides which have been revised to account for the following:
 - the end of contracting out,
 - the issue of the Occupational and Personal Pension Schemes (Automatic Enrolment)(Miscellaneous Amendments) Regulations 2016 [SI 2016/311],
 - the issue of the Automatic Enrolment (Earnings, Trigger and Qualifying Earnings Band) Order 2016 [SI2016/435] which revoked the 2015 Order [SI 2015/468], though continued the application of the 2015 Order earnings trigger, and
 - the content of the Draft Finance Bill 2016 containing proposals providing for Fixed Protection 2016 and Individual Protection 2016, and
- Version 1.6 of the Freedom and Choice Technical Note and version 2 0 of the Freedom and Choice Forms which have been revised to take account of the following:
 - The end of contracting out
 - The Finance (No.2) Act 2015
 - The Pension Sharing (Miscellaneous Amendments) Regulations 2016 [SI 2016/289]

- The Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2016 [SI 2016/294]

Training

During May, [circulares 299 and 300](#) were issued providing details of upcoming training events run by the LGPC Secretariat.

Circular 299 contained details of the Fundamentals training course being held over three days in each of Cardiff, Leeds and London. Designed as always to appeal to pensions committee members and to, more recently, members of local pensions boards, past delegates have also included trade union representatives, member and employer representatives, local government pensions officers and officers from private sector organisations who provide services to administering authorities. Over the three days, Fundamentals provides a 'fundamental' overview of all aspects of LGPS trusteeship/ stewardship. More details are contained in the links below:

London	Day 1	6 October
	Day 2	1 November
	Day 3	29 November
Leeds	Day 1	18 October
	Day 2	9 November
	Day 3	6 December
Cardiff	Day 1	25 October
	Day 2	15 November
	Day 3	14 December

Circular 300 contained details of forthcoming Understanding Death & Survivor Benefits workshops being held in August and September at the following locations:

23 August	London	Local Government House - FULLY BOOKED
31 August	Liverpool	Marriott Hotel
7 September	Cardiff	Marriott Hotel
13 September	Leeds	Marriott Hotel

Circular 300 also contained details of a further 'Insight' residential training course being held in Blackpool between 19-22 September 2016. This course is now fully booked.

Useful Links

[LGA Pensions page](#)

[LGPS E&W member 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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Distribution sheet

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