

Local Government Pensions Committee  
Secretary, Jeff Houston

## LGPC Bulletin 147 – July 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.

### Contents

#### LGPS England and Wales

[Responses to actuarial guidance queries](#)

[Interfund transfer calculations where payment is late](#)

[Fund transactions briefing note](#)

[DCLG consultation on amendment regulations](#)

[Consultation on college insolvency regime](#)

[GAD data request](#)

#### Other News and Updates

[2015/16 annual benefit statements](#)

[KPMG pensions savings statement](#)

[Update on exit payment reforms](#)

[Technical note on salary sacrifice SCAVCs](#)

[Distress and Inconvenience \(D&I\) payments](#)

[Fund contacts for TPR](#)

[New pensions minister](#)

[Tell Us Once](#)

[Pensions Ombudsman's 2015/16 annual report](#)

[National Audit Office report on public service pension schemes](#)

[House of Commons briefing note on the EU and pensions](#)

[Updates to documents](#)

#### Training

#### Legislation

## LGPS England and Wales

### Responses to actuarial guidance queries

Since April, when DCLG issued a number of updated items of actuarial guidance for the LGPS in England and Wales, we have raised a number of queries with the Department relating to the guidance.

The following responses have now been received:

#### **References to HMRC Registered Pension Schemes Manual**

There are a number of references / links in the guidance notes to HMRC's Registered Pension Schemes Manual (RPSM). As this manual has now been withdrawn and replaced by the Pensions Tax Manual (PTM), GAD have agreed that these references / links will need to be updated.

#### **Effective date for Additional Regular Contributions (ARC) guidance – elections before 1 April 2012 and elections on or after 1 April 2012 and before 1 April 2014**

The two above documents (both dated 14<sup>th</sup> April 2016) each state that they are effective from 1<sup>st</sup> April 2016. GAD have confirmed that both should actually be effective from 1<sup>st</sup> April 2017, in line with the requirements of [Admin Reg 23\(8\)](#), and they have proposed a clarifying amendment be made to both documents. We have asked DCLG that the transitional arrangements letter clarify what funds should do where they have already acted upon the new factors and amended the contributions payable by members backdated to 1<sup>st</sup> April 2016.

#### **Additional Pension Contributions (APC) guidance**

Some funds had pointed out that, under the new APC guidance (dated 12<sup>th</sup> April 2016), for some members it is cheaper to purchase additional pension over 1 or 2 years than by lump sum. GAD have confirmed that this is an anomaly that has arisen because of the light touch approach taken to updating the factors after the change to the SCAPE discount rate – only factors that would have a material impact were updated at that time. The anomaly will disappear at the next full review of the factors. The delay in the update to the regular APC factors is of benefit to members.

#### **Additional Survivor Benefits Guidance (elections before 1<sup>st</sup> April 2014)**

The LGPS Secretariat had [previously requested](#) some amendments to the additional survivor benefits guidance for elections before 1<sup>st</sup> April 2014 (dated 24<sup>th</sup> November 2015). Whilst this was not one of the pieces of guidance updated in April 2016, GAD have confirmed that our suggested amendments have been noted and will be addressed in due course.

#### **Club memorandum – calculating transfer on non-Club basis if advantageous to do so**

Paragraph 2.3 of the [Club memorandum](#) grants schemes the power to substitute an individual's Club transfer service credit for a non-Club transfer service credit if this would be greater. This power is permissive meaning that DCLG can choose to allow for this paragraph to be applied, but can also decide that it should not be applied by funds. Prior to April 2014, DCLG confirmed that funds could offer the better of a Club and non-Club service credit in a guidance note issued in November 2012. The note also contained guidance from GAD on when such a comparison should be triggered.

In [Bulletin 116](#), we confirmed that it was agreed at a software suppliers' meeting held in May 2014 that funds would need new guidance from DCLG on this matter in order to undertake this comparison taking into account the scheme's new career average structure. It was agreed at that time that until such guidance was issued funds should not apply that paragraph of the memorandum to Club transfers received.

DCLG are now considering what their policy is in respect of this issue and will discuss with GAD the requirements for a guidance note on the application of that paragraph to Club transfers.

### **Right to a transfer after previously taking benefits**

Paragraph 2.24 of the new Individual Incoming and Outgoing Transfers Guidance (dated 8<sup>th</sup> April 2016) provides detail of how to deal with the outward transfer of benefits where a member has already begun receiving payment of an LGPS pension. It uses the explicit example of a member who has taken flexible retirement.

However, the paragraph does not take into account changes that were made to the Pension Schemes Act 1993 via the Pension Schemes Act 2015 that restricted the statutory right to a transfer where a person has previously had a benefit crystallisation event in respect of a category of benefits (condition 2).

GAD have agreed that these changes would prevent a member who has flexibly retired (or otherwise already taken LGPS pension benefits) having a right to a CETV in respect of their active membership under Chapter IV of the Pensions Schemes Act 1993 (although if AVCs had been paid but none of the AVC fund had been drawn, a transfer of the AVC fund would be permissible). They will consider amending the guidance in due course to make this clearer.

### **Use of accumulated AVCs – pre April 2014 guidance**

The new guidance on the use of pre-April 2014 accumulated AVCs to provide additional pension (dated 14<sup>th</sup> April 2016) says on the front page and in para 1.8 that it covers councillors as well as regular scheme members. However, councillors do not have the option of purchasing additional pension with their AVCs. Schedule 8 of the 1997 Regulations says that regulation 66(4) of the 1997 Regs is omitted for councillor members. Reg 66(4) is the provision that allows for AVCs to purchase additional pension.

GAD have confirmed that the guidance will be amended in due course.

### **General**

A number of other queries remain outstanding and we will make funds aware of the responses received as soon as we get these through.

We still await the transitional arrangements letter for the updated pieces of actuarial guidance issued in April 2016 and continue to press the urgency of this with DCLG.

### **Interfund transfer calculations where payment is late**

Following the issue of the new actuarial guidance on interfund transfers in April, the LGPC Secretariat received a couple of queries regarding the requirements where an interfund transfer is paid late.

Paragraphs 3.11 and 3.12 of the interfund transfer guidance dated 14<sup>th</sup> April 2016 says the following regarding late payments:

3.11 *If the Interfund transfer amount is not paid within 3 months of the relevant date, it should be recalculated as at the date of payment (which would take account of any change in age and pension increases or revaluation that had occurred between the relevant date and the date of payment).*

3.12 *The earned pension credit under regulations 10(4), 10(5) and 10(6) should not be recalculated in the event of late payment.*

So, as per paragraph 3.11, if an interfund transfer is not paid within 3 months of the relevant date, the transfer value would need to be re-calculated on the date of payment. This is the same approach as was set out in the consolidated working copy of the interfund transfer guidance updated to August 2015.

However, paragraph 3.12 is a new addition. That says that where a transfer is made under regulations 10(4), 10(5) or 10(6), the earned pension credit should *not* be re-calculated in the event of late payment.

In practice, this means that in such cases the sending fund will need to send two transfer calculations to the receiving fund, one at the relevant date (for the purposes of providing the member's earned pension credit), and the other at the date of payment (for the purpose of verifying the total physical transfer payment).

### **Fund transactions briefing note**

Our thanks go to the funds who commented on the draft fund transactions briefing note that was sent to LGPC fund contacts on 21<sup>st</sup> June. The briefing note set out the detail of new transactions data that it is proposed funds will need to be able to supply to GAD in the future.

On 27<sup>th</sup> July, the LGPC had a productive meeting with DCLG and GAD to discuss the comments received and, in particular, the specific items of data where respondents had expressed concerns about providing the information in the requested format. A number of alternative approaches have been agreed in principle, and work is now underway to finalise and circulate an amended version of the briefing note.

The tight timescales for the introduction of the new requirements was one of the main concerns raised in the responses received. The LGA hope to arrange a meeting with GAD, DCLG and the administration software providers during August to discuss this issue in more detail so that a firm implementation date can be agreed and confirmed to all funds.

### **DCLG consultation on amendment regulations**

As reported in [bulletins 145 and 146](#), DCLG have [commenced a consultation](#) on amendments to the regulations of the LGPS in England and Wales. The LGA's response to this consultation is currently in draft and we hope to circulate our proposed response to all administering authorities early in the week commencing 8<sup>th</sup> August for funds' awareness.

### **Consultation on college insolvency regime**

The Department for Business, Innovation and Skills (BIS) [commenced a consultation](#) in early July on the development of an insolvency regime for further education colleges and sixth form colleges. The consultation period closes on Friday 5<sup>th</sup> August.

It should be noted that the responsible department for this area of work has now changed to the Department for Education (DfE) following changes in departmental responsibilities made at the time of the Government re-shuffle in mid-July.

Whilst the proposals in the consultation only extend to England, the consultation document makes clear that any proposed changes could also be applied to Wales in the future, as this is not an area devolved to the Welsh Government.

On 28<sup>th</sup> July, DfE attended a meeting with representatives of 13 LGPS pension funds to discuss the proposals and the possible impacts on the LGPS. DfE stated their view that whilst the proposed changes will provide for a formal framework via which a college's insolvency can be administered in the future, there will be no greater likelihood of a college becoming insolvent than there has been in the past. Indeed, in the view of the Government, the area review process currently ongoing should mean colleges should be financially more secure in the future.

In response, funds provided colleagues at DfE with a description of some of the issues associated with the participation of colleges in the LGPS, in particular in respect of:

- their ongoing financial security in the absence of a Government guarantee of colleges' pension liabilities, and
- the absence of colleges' engagement with LGPS pension funds in the area review process.

These issues will be picked up in the LGA's response to the consultation.

The slides that DfE presented at the meeting are attached as [appendix 1](#).

Following the meeting, the LGA will be undertaking a survey of pension funds in England and Wales to provide a firmer idea of the scale of liabilities that further education and sixth form colleges represent in the LGPS. The survey will be circulated in early August.

Once the LGA's response has been submitted this will be uploaded to the [Drafts and Consultations](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

### **GAD data request**

On 20<sup>th</sup> July 2016, DCLG circulated GAD's statutory request for membership data as at 31<sup>st</sup> March 2016 to LGPS funds in England and Wales. Funds are requested to submit this data to GAD via their data upload system by 1<sup>st</sup> September. Further details are due to follow setting out the practical requirements for uploading data via the upload system.

If you are concerned that your fund did not receive this request, please contact Andy Lankester ([Andy.Lankester@communities.gsi.gov.uk](mailto:Andy.Lankester@communities.gsi.gov.uk)).

## **Other News and Updates**

### **2015/16 annual benefit statements**

Following the confirmation received earlier this year that revaluation of pension accounts of members who left the LGPS in England and Wales or the LGPS in Scotland during 2015/16 and who did not take payment of their benefits before 31<sup>st</sup> March 2016 should be

applied on a proportioned basis, we are aware that some software suppliers have confirmed that an amendment will need to be made to their systems in order to deliver this. We understand that this may mean some funds may not be able to send their 2015/16 annual benefit statements to affected deferred members by the end of August 2016, as is required under regulation 89(1) of the LGPS Regulations 2013 and regulation 87(1) of the LGPS (Scotland) Regulation 2014.

If your fund is in this position, we recommend that you write to affected members to inform them of the situation and to provide a date by which you intend to send them their statement.

If, in general, any fund believes they will be unable to issue any of their active, deferred or pension credit 2015/16 annual benefit statements by 31<sup>st</sup> August 2016, they should be considering whether this is a 'material' breach of the law that would require them to report themselves to the Pensions Regulator.

There is some detailed guidance on reporting of breaches and 'materiality' in the Pensions Regulator's [code of practice no. 14](#) and we suggest that funds familiarise themselves with paragraphs 241 to 275 of the code. In respect of the software issue noted above regarding 2015/16 leavers, paragraphs 255 to 257 and 261 of the code would seem particularly relevant.

### **KPMG pensions savings statement**

On 11<sup>th</sup> July, the LGPC Secretariat circulated a sample pensions saving statement and accompanying factsheet for use by LGPS pensions funds in meeting their disclosure requirements for members with a breach of the annual allowance. The sample statement was developed by KPMG following a commission by the LGPC Secretariat.

Funds are welcome to amend the documents to tailor these to their own requirements. The LGPC's revamped annual allowance guide is still being developed and will be circulated as soon as this has been finalised.

### **Update on exit payment reforms**

The introduction of the Government's policy which will require high earners (earning £80,000 or more) who leave employment in the public sector with an exit payment to repay the exit payment, or a proportion of it, if they return to public sector employment within 12 months, has been delayed.

The intention had been to implement the legislation in July 2016 to take effect in autumn this year. However, Parliament has gone into recess without the appropriate legislation being made. It remains the goal of the Government to implement the proposals in autumn. However, this will depend on how quickly the legislation can be made following the return of Parliament on 5 September. Parliamentary time in September appears to be limited given that there will be a further recess during the party conference season.

The Government has also stated that it intends to implement the public sector £95,000 exit payments cap legislation in autumn.

Until the legislation is made we cannot be definitive as to when it will come into force but we will inform pension funds as soon as the position is finalised.

## Technical note on salary sacrifice SCAVCs

The LGPC Secretariat have recently been asked to issue updated guidance on shared cost AVC salary sacrifice arrangements to reflect increased employer interest in adopting these schemes.

In light of this, we have updated the legislative references from the section of LGPC [circular 244](#) (salary sacrifice) concerning SCAVCs and attach appendices [2](#) and [3](#) outlining our understanding of the current position in both England and Wales and Scotland, respectively.

## Distress and Inconvenience (D&I) payments

The Pensions Ombudsman has been in touch with the LGPC Secretariat regarding the payment of distress and inconvenience sums by LGPS pension funds.

The Ombudsman and TPAS occasionally come across a view from local authorities that they can only make D&I payments if the Ombudsman issues a determination instructing them to do so. With the general increase in pension complaints over the past couple of years, the Ombudsman is trying to resolve more cases at an early stage, either when the enquiries get to them or beforehand if possible. The Ombudsman have asked if funds can give greater consideration to making early D&I payments in the future in order to prevent complaints requiring a formal determination from the Ombudsman.

In the view of the LGPC Secretariat, local authorities in England have the power to make compensation payments under the Localism Act 2011 and local authorities in Wales have the power to make a compensation payment under the Local Government Act 2000. (Whilst we are confident that funds in Scotland may also make such payments, we are clarifying the legislation that provides for this and will confirm this in the August bulletin.) Whether a compensation payment made by an administering authority can be charged to the pension fund is, in our view, debateable. However, if a compensation payment is charged to the pension fund, HMRC's Pensions Tax Manual at [PTM143300](#) gives advice on whether it would be an authorised payment.

The Pensions Ombudsman Service has guidance regarding [Putting things right](#) on their website, which include a link to a [factsheet](#) that they have published on non-financial injustice and potential means of redress.

## Fund contacts for TPR

An email was sent to LGPC fund contacts on 8<sup>th</sup> July advising what to do if a fund wanted to update its registered scheme contact for the Pensions Regulator. The registered scheme contact is the individual that TPR contacts in respect of the annual scheme return.

Funds seeking to do this should contact the Regulator's customer support team by telephone or email. Their details are as follows:

Telephone: 0345 600 5666 (option 2) - opening hours are 9am to 5:30pm, Monday to Friday

Email: [exchange@tpr.gov.uk](mailto:exchange@tpr.gov.uk)

## **New pensions minister**

In the Government reshuffle that took place after Theresa May became Prime Minister, the Pensions Minister Ros Altmann left her post. The Conservative MP for Watford, Richard Harrington, has been appointed Parliamentary Under Secretary of State with responsibility for the pensions brief in Baroness Altmann's place.

The Minister for Local Government, Marcus Jones MP, remains in post at DCLG and retains responsibility for the LGPS in England and Wales.

## **Tell Us Once**

As a gesture of goodwill to public service pension partners and in recognition of their support during the immediate go-live period, DWP has taken the decision not to pass on the usual message charges to public sector pensions clients, including LGPS funds, for the period up to and including June 2016.

The [Canopy Digital Connect \(CDC\) wiki](#) has recently been updated to include two additional articles that may be of use to funds using Tell Us Once:

### **How to reset your own password:**

<https://atos-csms.atlassian.net/wiki/display/CDC/How+to...+Reset+Your+Password>

### **How to reset another user's password:**

<https://atos-csms.atlassian.net/wiki/display/CDC/How+to...+Reset+another+user's+Password>

*If you are a fund using Tell Us Once and you are concerned that you have not received a notification via the service for a while, please get in touch with [Con Hargrave](#) so that this can be looked into with DWP.*

Since the service went live, 1,899 death notifications have been delivered to LGPS pension funds using the service.

## **Pensions Ombudsman's 2015/16 annual report**

The Pensions Ombudsman Service has [published its 2015/16 annual report and accounts](#). The report shows that in the year to March 2016, the Ombudsman handled around 5,000 enquires, an increase of 18% on the previous year. The Ombudsman is also resolving more queries informally, with 63% resolved in this way during 2015/16, and only 44% resolved in this way the prior year.

## **National Audit Office report on public service pension schemes**

In late June the National Audit Office [published a report](#) evaluating the costs to the Government of providing public service pensions. The report is based on the figures contained in the 2014/15 Whole of Government Accounts and includes a section focussing on funded pension schemes such as the LGPS.

## **House of Commons briefing note on the EU and pensions**

The House of Commons Library has published a [short briefing note](#) on the possible implications for pensions of the decision taken in June's referendum that the UK should leave the EU.



## Updates to documents

As a result of the changes made to the England and Wales early retirement factors earlier this year, the [full employees' guide](#) for LGPS England and Wales has been updated.

The updated opt out forms included in version 6.1 of the automatic enrolment guide, as updated during June, have now been uploaded to the respective Forms pages of [www.lgpsregs.org](http://www.lgpsregs.org):

- LGPS England and Wales – [Forms](#)
- LGPS Scotland - [Forms](#)

## Training

The Understanding... Death and Survivor Benefits workshops taking place in late August/ early September are available for booking at the following links:

[31 August](#)                  Liverpool          Marriott Hotel

[7 September](#)                Cardiff            Marriott Hotel

[13 September](#)              Leeds              Marriott Hotel

The [London session](#) being held on 23<sup>rd</sup> August is fully booked.

Spaces are available for the each of this year's 'Fundamentals' sessions in London, Leeds and Cardiff. More details are contained at the links below:

London	<a href="#">Day 1</a>	6 October
	<a href="#">Day 2</a>	1 November
	<a href="#">Day 3</a>	29 November

Leeds	<a href="#">Day 1</a>	18 October
	<a href="#">Day 2</a>	9 November
	<a href="#">Day 3</a>	6 December

Cardiff	<a href="#">Day 1</a>	25 October
	<a href="#">Day 2</a>	15 November
	<a href="#">Day 3</a>	14 December

The second "Insight" residential training course for 2016 is being held in Blackpool between 19th and 22nd September. Once again, this course has proved so popular all places have been sold and there is already a significant wait-list. However, in order for us to plan courses for 2017 it would be helpful if you could register your interest by emailing [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk) who will give you prior notice of future "Insight" residential training courses or let you know of any cancellation on the Blackpool event.

## Legislation

### United Kingdom

SI	Reference Title
2016/776	The Pensions Act 2004 (Code of Practice) (Governance and Administration of Occupational Trust-based Schemes Providing Money Purchase Benefits) Appointed Day Order 2016
2016/719	The Employers' Duties (Implementation) (Amendment) Regulations 2016

### 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](mailto:query.lgps@local.gov.uk) and one of the team's LGPS pensions advisers will get back to you as soon as possible.***

#### **Jeff Houston (Head of Pensions)**

Telephone: 0207 187 7346

Email: [jeff.houston@local.gov.uk](mailto:jeff.houston@local.gov.uk)

#### **Terry Edwards (Senior Pensions Adviser)**

*(NB: Normal working days are Thursday and Friday. Works on pension projects and is **not** a contact for technical enquiries)*

Telephone: 01954 232 834

Email: [terry.edwards@local.gov.uk](mailto:terry.edwards@local.gov.uk)

**Tim Hazlewood (Pensions Training & Development Manager)**

*(NB: Normal working days are Monday and Tuesday. Works on training events and conferences only and is **not** a contact for technical enquiries)*

Telephone: 01455 824 850

Email: [tim.hazlewood@local.gov.uk](mailto:tim.hazlewood@local.gov.uk)

**Jayne Wiberg (Pensions Adviser)**

Telephone: 07979 715825

Email: [jayne.wiberg@local.gov.uk](mailto:jayne.wiberg@local.gov.uk)

**Lorraine Bennett (Pensions Adviser)**

Telephone: 0207 187 7374

Email: [lorraine.bennett@local.gov.uk](mailto:lorraine.bennett@local.gov.uk)

**Con Hargrave (Pensions Adviser)**

Telephone: 0207 664 3176

Email: [cornelius.hargrave@local.gov.uk](mailto:cornelius.hargrave@local.gov.uk)

**Liam Robson (Pensions Analyst)**

Telephone: 0207 664 3328

Email: [liam.robson@local.gov.uk](mailto:liam.robson@local.gov.uk)

**Elaine English (LGPS Executive Officer)**

Telephone: 0207 187 7344

Email: [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk)

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

Email: [alison.hazlewood@local.gov.uk](mailto:alison.hazlewood@local.gov.uk)

## Distribution sheet

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LGPC Secretariat  
Local Government Association  
Local Government House  
Smith Square  
London, SW1P 3HZ

or email: [Con Hargrave](mailto:Con.Hargrave@lga.gov.uk)  
tel: 0207 664 3176