Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 150 – October 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

Debate following e-petition on LGPS investment regulations

Earlier this year, an e-petition was set up on the Government website in response to the consultation on new investment regulations for the LGPS in England and Wales, which was underway at the time. The e-petition set out concerns about:

- the proposed Government intervention power in scheme investments,
- the requirement for an improved capacity for investment in infrastructure, and
- ensuring that investments be made in the interests of scheme members.

As the e-petition succeeded in getting over 100,000 signatures, the Government granted a debate on the subject and this debate was held on 24 October 2016. The Hansard transcript of the debate is available here.

Early Day Motion (EDM) to annul LGPS Investment Regulations 2016

On 25 October, MPs from the Labour Party submitted an Early Day Motion praying that the LGPS (Management and Investment of Funds) Regulations 2016 [SI 2016/946] be annulled. It is understood that the Early Day Motion has been submitted because of similar concerns to those that gave rise to the e-petition (as detailed above).

Historically, it is very rare that an EDM to annul a statutory instrument is successful, but it is possible that the date the regulations come into force (currently planned for 1 November 2016) may be delayed slightly.

Government publish response to college insolvency consultation

Following the Government consultation undertaken earlier this year to introduce insolvency provisions for further education and sixth form colleges in England (see articles in bulletins 148 and 149), the Department for Education has published its formal response.

The response notes that the LGPS was a common issue raised in responses and the Government respond to a number of the concerns raised about the potential impacts on the LGPS on pages 27 and 28 of the document. In particular, the Government's views are as follows:

- Following the area review process, the risk of college insolvency will be very low and the special administration regime (SAR) will be a tool of last resort.

- However, in the event of a college insolvency event, most cases would not result in the crystallisation of a pensions deficit as there would be a merger with, or transfer to, another provider.
- Pension funds should nevertheless assess the strength of each employer's covenant.
- Providing guarantees from Government for college liabilities would not be appropriate as colleges do not form part of the public sector. The comparison with academies, for whom the Government does provide a limited guarantee, is therefore not fitting because academies are public bodies.
- During an insolvency event, the Government would consider whether ongoing pension contributions should form part of the costs of administration to be funded by Government.

The Government will now take forward their plans via primary legislation when parliamentary time permits.

Government drops plan to convert all schools to academy status
It was reported on 27 October 2016 that the Government had dropped its bill to require all schools in England to convert to academy status by 2022.

The Government are still of the view that schools would benefit from the freedom and autonomy that academy status brings, but they will now focus their efforts on encouraging schools to convert voluntarily. No new primary legislation is needed for this purpose.

Publication of LGPS (E&W) statistics 2015/16
Following the completion of the 2015/16 SF3 data collection forms by LGPS administering authorities in England and Wales, DCLG have published their results.

The key points from the England release are:

- Total Local Government Pension Scheme expenditure in England in 2015-16 was £10.0 billion. On a like-for-like basis the increase was £0.6 billion or 6.1%

- Total Local Government Pension Scheme income in England in 2015-16 was £12.4 billion. On a like-for-like basis the decrease was £0.2 billion or 1.4%.

- Employers' contributions to the Local Government Pension Scheme in 2015-16 amounted to £6.6 billion and employees' contributions to the scheme were £2.0 billion.

- The market value of the Local Government Pension Scheme funds in England at the end of March 2016 was just over £200 billion.

- The Local Government Pension Scheme in England encompasses more than 5.06 million people. Of this number, 1.8 mil-lion are employees who are still contributing to the scheme, 1.5 million are pensioners and 1.8 million are former employees who are entitled to a pension at some time in the future

The key points from the Wales release are:

- Total Local Government Pension Scheme expenditure in Wales in 2015-16 was £758 million. On a like-for-like basis the increase was £69 million or 8.2%

- Total Local Government Pension Scheme income in Wales in 2015-16 was £863 million, an increase of £40 million, or 4.9%, on 2014-15.

- Employers' contributions to the Local Government Pension Scheme in 2015-16 amounted to £472 million and employees' contributions to the scheme were £135 million.

- The market value of the funds at the end of March 2016 was just over £13 billion.

- The Local Government Pension Scheme in Wales encompasses 333,000 people. Of this number, 135,000 are employees who are still contributing to the scheme, 92,000 are pensioners and 105,000 are former employees who are entitled to a pension at some time in the future.

It should be noted when looking at the figures that:

- Comparisons on a fund level from 2012/13 to 2015/16 may be difficult given the transfer of probation staff to Greater Manchester Pension Fund in 2014/15.

- There have been changes in the way that administration costs are now recorded, meaning that historical comparisons may also be difficult in respect of the costs of the scheme.

Legal opinion on LGPS and application of FSMA 2000

The LGA has obtained a legal opinion from Nigel Giffin QC on the extent to which a local authority or other body which is the administering authority of an LGPS fund might in that connection be subject to regulation by the Financial Conduct Authority ("FCA") pursuant to the Financial Services and Markets Act 2000 ("FSMA").

In the opinion, which is available on the LGPS Advisory Board website, Mr Giffin concluded that, in managing an LGPS fund, the administering authority is not carrying out a regulated activity, and does not require FSMA authorisation. In addition, the substantive provisions of the Client Assets Sourcebook section (CASS) of the FCA handbook do not apply to the activities of an administering authority acting as such, even though that authority may have FSMA authorisation for some other reason.

LGPS Scotland

Power to make Distress and Inconvenience (D&I) payments

In bulletin 147, we included an article regarding the payment of distress and inconvenience sums by LGPS pension funds.

The article followed the Pensions Ombudsman contacting the LGPC Secretariat to ask if funds could give greater consideration to making early D&I payments in order to prevent complaints requiring a formal determination from the Ombudsman.

In the bulletin, we stated our view that local authorities in both England and Wales were empowered to make such payments, by virtue of the Localism Act 2011 and the Local Government Act 2000 respectively, but that we were clarifying the legal position as applies in Scotland.

We have since confirmed with the SPPA that they are of the view that the 'wellbeing' power contained in section 20 of the Local Government in Scotland Act 2003 provides a legal basis for Scottish LGPS funds to make such payments. This would seem an entirely reasonable approach to the LGPC Secretariat, given the following:

- Sub-section 20(1) gives the power to local authorities to do anything which it considers is likely to ‘promote or improve’ the well-being of its area and / or *persons within that area*.
- Sub-section 20(2) gives local authorities a range of powers to fulfil their well-being responsibilities including the power to:
  - Incur expenditure,
  - Give financial assistance to any person, and
  - Enter into arrangements or agreements with any person.
- Sub-section 20(3) confirms that any action taken by the local authority under the well-being power can be exercised in relation to, or for the benefit of, individual persons.

SPPA Circular 6/2016

On 12 October 2016, SPPA published circular 6/2016 confirming how arrears of pay in respect of equal pay claims should be treated for the purposes of regulation 20 of the LGPS (Scotland) Regulations 2014 (pensionable pay).

Regulation 20(2)(h) says:

(2) But an employee’s pensionable pay does not include—

(h) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees;

The circular confirms that where a ‘payment is made in settlement of an equal pay claim where the payment represents arrears of pay’ this should be classed as pensionable. However, “compensation... for the purpose of achieving equal pay in relation to other employees” remains non-pensionable.

The circular is available on the LGPS Regulations and Guidance website.

HMRC

Countdown bulletin 20

HMRC contracting-out countdown bulletin 20 was published in October 2016.

In the bulletin, HMRC confirm that they intend to automatically close all open periods of contracted out employment held on their records (i.e. for active members) in December 2016. HMRC will then be contacting pension schemes with their active member output between January 2017 and March 2017 to allow schemes to reconcile their active member records. Administering Authorities are therefore urged to send any reconciliation queries they may have regarding their pensioner or deferred data, to HMRC as soon as possible.

Other topics covered in the bulletin include:

- GMP checker error messages
- SRS query template formatting
- CRM team update

- Planned HMRC consultation on technical amendments
- Pensions forum survey results

Contribution Equivalent Premiums (CEPs)

Where a member: -

- Held a frozen refund within the LGPS (England & Wales) or LGPS (Scotland) and the CEP has been paid by the administering authority, and
- Sometime later the member re-joined the same scheme at which point the service was automatically aggregated (because a refund can no longer be paid),

it would appear that under regulation 14 of Occupational Pension Schemes (Schemes that were contracted-out)(no.2) Regulations 2015 (SI 2015/1677), CEPs can no longer be reclaimed on or after 6 April 2016. This is because regulation 54(1)(b) of the Occupational Pension Schemes (Contracting-out) Regulations 1996 [SI 1996/1172] was not replicated within the later set of regulations.

The Secretariat initially raised this matter with HMRC in December 2015 and in August 2016 received the following response: "*DWP have confirmed that the policy intent is that periods of contracted out service pre-abolition should not be linked with post-abolition non-contracted service*". This has raised a number of concerns and the Secretariat has again queried the policy intent with HMRC.

By way of background, a deferred refund **must** continue to be aggregated where a member re-joins the same LGPS scheme (there is no other option as a refund cannot be paid under the tax rules, where the member is in active service). Therefore, where a CEP has already been paid by the administering authority, if we apply the policy response, the benefits aggregated may need to be reduced to account for the fact that the administering authority can no longer reclaim the CEP. The extent of the adjustment will be a matter for the Secretary of State to determine by way of actuarial guidance.

The Secretariat will update administering authorities once a reply has been received from HMRC.

DWP

Guidance on saving and planning for retirement

DWP have published a series of guidance notes aimed at helping people save and plan for retirement.

- Saving for retirement if you're aged 16 to 50
- Planning for retirement if you're aged 50 or over
- Retirement planning for current pensioners

State Pension Age independent review: interim report

Under the Pensions Act 2014, the Government must undertake an independent review of the State Pension Age each parliament. The independent review for the current Parliament has produced an interim report of its findings prior to its final report which is due to be published in 2017. The final report will make recommendations to Government on possible changes to the SPA.

The interim report contains a number of questions on which the Government is seeking views and evidence. The consultation period closes on 31st December.

The Pensions Regulator

TPR self-assessment tool for public service pension schemes

The Pensions Regulator (TPR) has published a self-assessment tool for those involved in running public service pension schemes to assess how they are getting on with both meeting their legal requirements and complying with the guidance set out in the Regulator's code of practice number 14.

The tool sets out some processes, tools and actions TPR expect to see in a well-run scheme and, upon completion, the tool provides users with indicative risk ratings in certain key areas.

If you would like to give feedback on the tool, please email TPR at PSPSR@tpr.gov.uk.

Forthcoming survey of public service pension schemes

Following last year's survey of the governance and administration of public service pension schemes, TPR will soon be commencing its 2016 survey. We understand that the survey will build on the content of last year's survey, but with a greater emphasis on record-keeping, internal controls and communications

The survey will be directed to the contact details TPR hold for each scheme manager (rather than the scheme return contacts), and TPR will also be writing to pension board chairs to advise them of the survey.

Other News and Updates

Duplicate death grants – contacting funds who have not yet submitted data to the LGPS Database

LGPS pension funds will be aware that in November 2015, the LGPC Secretariat launched the LGPS Database (note – this link will only work for registered users) for the primary purpose of preventing the incorrect payment of duplicate death grants to the beneficiaries of LGPS members.

At the time of writing, there are still a number of funds who have not yet completed the registration process for the Database or who are now registered but have not yet uploaded their membership data to the system. As at 28 October 2016, the funds that this applies to are as follows:

England and Wales
LB Brent Pension Fund
Buckinghamshire Pension Fund
City of Westminster Pension Fund
LB Croydon Pension Fund
LB Enfield Pension Fund
LB Hackney Pension Fund
LB Hammersmith and Fulham Pension Fund
LB Hillingdon Pension Fund
Isle of Wight Pension Fund

LB Islington Pension Fund
RB Kensington and Chelsea Pension Fund
RB Kingston upon Thames Pension Fund
LB Lewisham Pension Fund
Nottinghamshire Pension Fund
LB Redbridge Pension Fund
LB Southwark Pension Fund
Surrey Pension Fund
LB Sutton Pension Fund
LB Tower Hamlets Pension Fund
LB Waltham Forest Pension Fund
Worcestershire Pension Fund

Scotland
Falkirk Pension Fund
Lothian Pension Fund
Orkney Pension Fund
Scottish Borders Pension Fund
Shetland Islands Pension Fund
Strathclyde Pension Fund
Tayside Pension Fund

If you are an active user of the LGPS Database, you may find it necessary to contact the above funds directly when dealing with death cases in order to satisfy yourself that you are not paying a duplicate death grant in error.

The principle of data sharing across the LGPS only works effectively if all LGPS pension funds participate and we urge all the remaining funds to submit their data to the system as soon as possible.

The funds listed above should also be aware that without submitting data to the LGPS Database, they will not be able to become part of the Tell Us Once service, which in the seven months since its launch has already resulted in 3,784 formal death notifications being delivered directly to LGPS pension funds through England, Wales and Scotland.

Aggregation of Pre 1 April 2014/2015 benefits (deferred / deferred refund) to benefits of a member who joined the LGPS on or after 1 April 2014/ 2015

The LGPC Secretariat raised the following questions regarding D1 and D2 members in footnotes 1 and 2 of both the LGPS 2014 aggregation guide and the LGPS 2015 aggregation guide.

LGPS 2014 aggregation guide:

"Scenario D1
It is not clear why, where a member left prior to 1 April 2014 with a deferred refund and rejoins the Scheme on or after 1 April 2014 and has not had a continuous break in active membership of a public service pension scheme of more than 5 years, regulation 10(5) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 requires that the transfer value in respect of the pre 1 April 2014 membership should purchase an amount of earned pension in the member's active pension account (rather than final salary membership in accordance with section 20 of, and paragraph 1 of

Schedule 7 to, the Public Service Pensions Act 2013). Clarification has been sought from DCLG.

Scenario D2
*It is not clear why, if the member **does not** elect to be treated as if he / she had been an active member on 31 March 2014 and 1 April 2014 and elects to aggregate, regulation 10(6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 requires that the transfer value in respect of the pre 1 April 2014 membership should purchase an amount of earned pension in the member's active pension account (rather than final salary membership in accordance with section 20 of, and paragraph 1 of Schedule 7 to, the Public Service Pensions Act 2013). Clarification has been sought from DCLG."*

LGPS 2015 aggregation guide:

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Scenario D2
It is not clear why, if the member does not elect to be treated as if he / she had been an active member on 31 March 2015 and 1 April 2015 and elects to aggregate, regulation 10(6) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 requires that the transfer value in respect of the pre 1 April 2015 membership should purchase an amount of earned pension in the member's active pension account (rather than final salary membership in accordance with section 20 of, and paragraph 1 of Schedule 7 to, the Public Service Pensions Act 2013). Clarification has been sought from SPPA."

Since first publishing the guides the Secretariat have received a number of queries regarding these questions.

The Secretariat has further investigated this subject and we have set out below the basis for what we believe to be the overall outcome, based on the current wording of the LGPS Regulations.

Summary of the Secretariat's understanding of the Public Service Pensions Act 2013 (PSPA2013)

In the first instance if we start with the principles of the final salary link as set out in schedule 7 of the PSPA2013.

Schedule 7 paragraph 1 covers persons who remain in the 'old scheme' for past service and defines those individuals in paragraph 1(1) as being a person who:

- was a member of an existing scheme (defined in s18(2) and Schedule 5, in the case of the LGPS as a scheme set up under s.7 of the Superannuation Act 1972) – **Old Scheme**, and
- is a member of a scheme under section 1 (defined in the case of the LGPS as a scheme set up under s.1 of the Public Service Pensions Act 2013) – **New Scheme**

The use of the term 'member' is not defined and accordingly this could be construed as an active, deferred or pensioner member (though paragraph 5 of Schedule 7 makes clear that final salary protection does not apply to a pension in payment).

Paragraph 1(2) moves on to qualify that if the 'old scheme' service and the 'new scheme' service are continuous (paragraph 1(2)(a)) then, for the purposes of determining the person's final salary for their 'old scheme' service, the 'old scheme' service is regarded as having ended when the 'new scheme' service ended and the earnings in the 'new scheme' are derived as earnings from the 'old scheme'. Paragraph 1(3) qualifies that those earnings must not be less than what would have been achieved under the 'old scheme'.

Summary: So at this stage, the pre 1 April 2014 final salary benefits of a member who was continuously in the LGPS (England and Wales) both on 31 March 2014 and 1 April 2014 retains final salary protection when the member ends their 2014 Scheme membership. Similarly, the pre 1 April 2015 final salary benefits of a member who was continuously in the LGPS (Scotland) on 31 March 2015 and 1 April 2015 retains final salary protection when the member ends their 2015 Scheme membership.

If we then move onto paragraph 3 of Schedule 7 of PSPA2013, this deals with continuity of employment and defines continuity for the purposes of paragraphs 1(2)(a) and 2(2)(a). Where there is a gap in LGPS service, for the purpose of determining continuity, the following are ignored:

a) Any gap in LGPS service, where the person was in one of the new public service schemes (set up under s.1 of the PSPA2013)
b) A single gap of LGPS service of 5 years or less, where the person was not in one of the new public service schemes (set up under s.1 of the PSPA2013)
c) Two or more gaps in LGPS service of 5 years or less (where any one gap does not exceed 5 years), where the person was not in one of the new public service schemes (set up under s.1 of the PSPA2013)

Note that above the gaps in LGPS service must be gaps within the same LGPS scheme (for example, within the LGPS in England and Wales).

Summary: Based on the above, it appears that where a member of the LGPS in England and Wales:

a) was not continuously a member of the LGPS on both 31 March 2014 and 1st April 2014,
b) but aggregates Pre 1 April 2014 benefits with Post 31 March 2014 benefits on re-joining the scheme, and
c) meets one of the continuity conditions set out in paragraph 3 of Schedule 7,

the Act prescribes that the aggregated benefits **must** be provided with final salary protection.

Similarly, where a member of the LGPS in Scotland:

a) was not continuously a member of the LGPS on both 31 March 2015 and 1st April 2015,
b) but aggregates Pre 1 April 2015 benefits with Post 31 March 2015 benefits on re-joining the scheme, and
c) meets one of the continuity conditions set out in paragraph 3 of Schedule 7,

the Act prescribes that the aggregated benefits **must** be provided with final salary protection.

However, both regulation 10(6) of the Transitional Provisions Regulations 2014 and regulation 10(6) of the Transitional Provisions (Scotland) Regulations 2014 seem to provide an initial choice for the member (i.e. CARE or final salary), meaning that for the member to receive final salary protection, the member has to elect under regulation 5(5). This appears to be in contrast with what the PSPA2013 requires (as set out above), and accordingly we believe the statement within the aggregation guide is correct as the default position should be that, in the first instance, the member is awarded final salary protection.

In our view, only thereafter, if DCLG/SPPA wished to extend this option to members, should the member be able to elect for earned pension as an alternative. However, this may not be desirable, as even if a member were to initially elect for the aggregated earlier service to purchase CARE pension the member would, under the PSPA2013, still be entitled to a final salary benefit if this was higher than the earned pension i.e. the underpin would have to be applied in all such cases (even where the member was not over 55 / within 10 years of NRD in 2012).

Similarly both regulation 10(5) of the Transitional Provisions Regulations 2014 and regulation 10(5) of the Transitional Provisions (Scotland) Regulations 2014,appear incorrect as the member is awarded 'earned pension' upon aggregation of a deferred refund, which does not seem to comply with the PSPA2013 at all. Based on our reading of the PSPA2013, we believe the statement within the aggregation guide is correct as the default position should be that in the first instance the member is awarded final salary protection.

In our view, only thereafter, if DCLG/SPPA wished to extend this option to members, should the member be able to elect for earned pension as an alternative. However, for the reasons set out above, this may not be desirable.

The Secretariat's understanding of the impact to Administering Authorities

At the moment we believe we have two issues:

1. If administering authorities are following the Transitional Provisions Regulations 2014 / the Transitional Provisions (Scotland) Regulations 2015 and our aggregation guide they will be giving:
   i) deferred refund cases, and

ii) deferred benefit cases who did not elect to be treated as if they were an active member on 31/3/14 and 1/4/14 (or, in Scotland, 31/3/15 and 1/4/15),

a CARE benefit in respect of the aggregated service.

If that eventually turns out to be greater than the final salary guarantee under the PSPA2013 then we believe the member will be happy and the Fund can justify paying a benefit higher than that provided for under the PSPA2013 on the grounds that the Transitional Provisions Regulations 2014 / the Transitional Provisions (Scotland) Regulations 2014 require us to pay that benefit. However, if the CARE pension from the aggregated service turns out to be less than the final salary benefit provided for under the PSPA2013 the member could complain that the administering authority had not complied with the PSPA2013 and demand the higher, final salary benefit (to which they are entitled under the PSPA2013).

2. If administering authorities are following the PSPA2013 and ignoring our aggregation guide and the Transitional Provisions Regulations 2014 / the Transitional Provisions (Scotland) Regulations 2014, they will be giving:
    i) deferred refund cases, and
    ii) deferred benefit cases who did not elect to be treated as if they were an active member on 31/3/14 and 1/4/14 (or, in Scotland, 31/3/15 and 1/4/15),

   a final salary benefit in respect of the aggregated service.

   If that eventually turns out to be greater than the CARE benefit under the respective Transitional Regulations then we believe the member will be happy and the administering authority can justify paying a benefit higher than that provided for under the Transitional Provisions Regulations 2014 / the Transitional Provisions (Scotland) Regulations 2014 on the grounds that the PSPA2013 requires the Scheme to pay that benefit. However, if the final salary pension from the aggregated service turns out to be less than the CARE benefit provided for under the respective Transitional Regulations the member could complain that the administering authority had not complied with the Transitional Provisions Regulations 2014 / the Transitional Provisions (Scotland) Regulations 2014 and demand the higher, CARE benefit (to which they are entitled under each set of Transitional Regulations).

Thus, whichever stance an administering authority is currently taking, there will be cases where the member may be due a higher payment. This will remain the case unless / until DCLG and SPPA amend the provisions of the Transitional Regulations 2014 and the Transitional (Scotland) Regulations 2014, respectively.

Publication of September 2016 CPI rate

On 18 October 2016, the Office for National Statistics (ONS) announced that the Consumer Prices Index (CPI) rate of inflation for September 2016 was 1.0%.

Government policy in recent years has been to base both pensions increase under the Pensions (Increase) Act 1971 and revaluation of pension accounts under section 9 of the Public Service Pensions Act 2013 on the rate of CPI for September of the previous year.

We await confirmation from the Government in due course that revaluation and pensions increase for April 2017 will apply in the LGPS at a rate of 1.0%.

Royal London guide to topping up State Pension

Royal London have published a detailed guide listing the various ways that an individual may top up their State Pension, depending on their personal circumstances and when they reach their State Pension Age (SPA).

In an article published around the time the document was released, Steve Webb, the former pensions minister and current Director of Policy at Royal London noted that this may be particularly appealing to former public sector workers who have:

a) Retired, and
b) Not yet reached SPA (or have reached their SPA since 6 April 2016).

This group of individuals will have their state pension based on the new 'flat rate' system, but as they have been in contracted-out employment, may find that they have a 'contracted-out deduction' applied to their state pension when they reach SPA.

Subject to meeting certain eligibility criteria, these members may be able to add to their pension by paying voluntary Class 3 National Insurance (NI) contributions. Royal London estimate that making a year's worth of voluntary NI contributions for the year 2016/17 would cost an individual £733 via lump sum, and that this would buy roughly £231 per year in additional state pension. This would mean that, at current estimates, the individual would make their money back within four years of receiving their state pension.

Below is an extract from the Money Advice service website on the options available to individuals looking to top up their state pension:

Topping up your State Pension

There are two schemes available to top up your State Pension. Which one to use depends on whether or not you have reached State Pension Age.

Class 3 Voluntary National Insurance Contributions

If you have not yet reached State Pension Age but are worried that you might not have enough NI record to qualify for State Pension (or to get the maximum amount), you can make Class 3 National Insurance contributions. These contributions are voluntary and allow people to fill gaps in their record to improve their basic State Pension entitlement.

State Pension Top Up Scheme

If you have already reached State Pension Age you can increase your State Pension and get a guaranteed extra income for life with the State Pension top up scheme.

You must be entitled for State Pension and have reached State Pension age before 6 April 2016 to be eligible for the scheme. Use the scheme to increase your State Pension by between £1 and £25 per week if you're either:

- *A man born before 6 April 1951*
- *A woman born before 6 April 1953*

You'll need to make a lump sum contribution between before 5 April 2017. Use the State Pension top up calculator to find out how much you'll need to pay.

Pensions Dashboard – commencement of project group

In the 2016 Budget the Government announced that it intended to ensure that the pensions industry would design, fund and launch a 'pensions dashboard' by April 2019, a tool that would allow individuals to view all their pensions savings in one place.

Work has now begun to develop a prototype of the dashboard. HM Treasury, who are leading on this for the Government, have appointed the Association of British Insurers (ABI) to act as project lead for the Dashboard and the ABI will be working with a cross-industry project group to develop a working prototype by late Spring 2017.

Reforms to Government money and pensions advice services

The Government has confirmed its plans to reform how financial advice is provided in the UK by creating one standalone public financial guidance body to combine the services currently provided by:

- The Money Advisory Service,
- The Pensions Advisory Service, and
- Pensions Wise.

The decision follows two consultations undertaken by the Government on the topic:

- An October 2015 consultation, seeking ideas for how financial advice services could be reformed, and
- A March 2016 consultation, in which the Government outlined its plans at that time for a two-body model.

Following the decision, the Government will consult on the best way to design a single body model, following which primary legislation will be introduced to bring about the reforms.

Government scraps plans for secondary annuities market

The Government has scrapped its plans to introduce a 'secondary annuities market' that would have allowed pensioners to sell their annuities on an open market.

The proposals were originally announced in the March 2015 Budget so that those who were already retired prior to the introduction of pensions flexibilities in April 2015 could choose to sell their annuity and either buy a better value annuity with the proceeds, or use the money to take advantage of the new pensions freedoms.

However, the plans have been scrapped because of:

a) a perceived lack of demand for purchasing secondary annuities which suggested that the market would not be competitive, and
b) low confidence that consumers selling their annuities would get good value for money, with concerns that many would end up worse off.

High Court case – Teachers Pension Scheme (TPS) member and overpayment of pension

On 14 October, the High Court issued its judgment in the case of Mr Webber and the Department of Education, which was an appeal of a Determination by the Pensions Ombudsman (TPO) on 2 February 2016. The judgment highlights the relationship between the date of a complaint made to TPO about an overpayment of pension and the role of the respondent looking to obtain recovery.

Mr Webber was a member of the TPS who took early retirement in 1997. He was subsequently re-employed as a full-time teacher from September 2001. Mr Webber notified Teachers Pensions (TP) that he had resumed employment, and TP subsequently confirmed to him that his earnings for the tax year 2001-2002 (covering the part of the year from September to 5 April) would not take him over the abatement threshold. However, TP overlooked the fact that Mr Webber’s earnings for a full year would take him over the limit in 2002-2003, and in every tax year thereafter. As a result, Mr Webber continued to be paid his pension in full.

TP spotted the error in November 2009, and wrote to Mr Webber to seek recovery of more than £36,000 of overpaid pension. Mr Webber raised a complaint through the TPS’ IDRP followed by a complaint to TPO. The Deputy Pensions Ombudsman found against Mr Webber, who then appealed to the High Court twice.

On the second appeal, Mr Webber raised the issue of limitation. Under section 5 of the Limitation Act 1980, a claim for repayment of money paid by mistake cannot be brought later than six years after the right to make that claim first arose (ie when the mistaken payment was made). However, under section 32 of that Act, that six-year limitation period will not start to run until the claimant discovers the mistake for the first time, or could (with reasonable diligence) have discovered it.

The judge upheld Mr Webber’s appeal on that issue, concluding that TP could reasonably have identified in the 2002-3 tax year that Mr Webber’s pension would need to be abated. Therefore, the limitation period started to run from that year. However, the judge did not decide at what date the limitation period stopped running – the ‘cut-off date’. This date was significant since TP would only be able to recover overpayments made in the six-year period ending with the cut-off date. The parties were invited to agree a cut-off date, but failed to do so, as a result the case was brought to TPO for a third time. The Ombudsman decided that the closest analogy to TP “bringing a claim” (for the purposes of s.5) was when TP wrote to Mr Webber in November 2009 informing him that his pension had been overpaid and that they required him to make repayment.

Mr Webber disagreed and appealed to the High Court again. The appeal concluded that the cut-off date was the date when TPO received TP’s reply to Mr Webber’s complaint, in which it was clear that they would be resisting that complaint, as this was the first date at which TP put forward a claim through formal proceedings.

This case highlights the importance of pension schemes taking prompt action to recover overpayments as those who fail to do so may risk losing their right to recover the debt on limitation grounds.

As a result of this case, TPO has announced that they will be reviewing their processes and procedures for dealing with overpayment cases.

O’Brien v Ministry of Justice and Walker v Innospec – Supreme Court hears appeals

In October 2015, the Court of Appeal held in the above two cases that survivors' pensions do not have to take into account civil partners' pension benefits accrued before the introduction of civil partnerships on 5 December 2005.

In July 2016, the Supreme Court granted permission to hear appeals in respect of the cases. A date has not yet been set for the Supreme Court hearing.

ONS publishes Occupational Pension Schemes Survey 2015

The Office for National Statistics (ONS) has published its Occupational Pension Schemes Survey, which gathers information about occupational pension provision in the UK, including data on membership of schemes and contribution rates. The report reveals that the total membership of occupational pension schemes in 2015 was 33.5 million, the highest level recorded by the survey and an increase of 10% compared with 2013 (30.4 million). The survey can be found on the GOV.UK website.

PLSA DB taskforce interim report

The Pensions and Lifetime Savings Association (PLSA) convened a defined benefit taskforce in March to identify the challenges facing defined benefit pension schemes and to seek to understand the impacts of those challenges on member benefits, employers and the whole economy.

On 20 October 2016, the taskforce published its interim report showing that, on the whole, DB pension schemes are under severe pressure. Over the coming months, the taskforce plans to examine the challenges and develop solutions to help ensure the sustainability of DB schemes in the longer term.

ABI guide to simplifying pensions language

Following the changes introduced to UK pensions in April 2015, the Association of British Insurers (ABI) has published a guide to simplifying retirement language so that members understand their options and the differences between them.

The guide approaches retirement communications primarily from the defined contributions perspective, but the document may be of use for communicating with members who are considering accessing their AVCs flexibly (pending expected future changes to scheme regulations).

Pension Schemes Bill 2016/17

Following the announcement in the Queen's Speech earlier this year, the Government has published the Pensions Schemes Bill 2016/17 which will introduce a new regulatory framework for money purchase Master Trust pension schemes.

In its progression through Parliament, the Bill is going through the House of Lords first and will have its Second Reading on Tuesday 1st November.

A House of Lords briefing paper on the Bill has also been published.

Updates to LGPC documents

During October 2016, the following updates were made to LGPC documents on www.lgpsregs.org, each available in tracked and clean formats:

- Revaluation guide (v1.4) – Administration Guides [E&W] [Scotland]
- Transfer declaration and advice confirmation forms (v3.0) – Forms [E&W] [Scotland]
- Freedom and Choice Q&A for members – Employees' Guides [E&W] [Scotland]

The LGA has moved

As of 28 October 2016, we have temporarily moved to our offices in Farringdon, London to allow refurbishment works to take place at Local Government House. The refurbishment of Local Government House is expected to last for nine months, with the latest estimated date for our return to be in August 2017. Our new address in Farringdon is:

Layden House
76-86 Turnmill Street
London
EC1M 5LG

Training

Spaces are available for the each of this year's 'Fundamentals' Day 2 sessions in Leeds and Cardiff and for the Day 3 sessions in London, Leeds and Cardiff. More details are contained at the links below:

London	Day 3	29 November
Leeds	Day 2	9 November
	Day 3	6 December
Cardiff	Day 2	15 November
	Day 3	14 December

On 26 October 2016, training circular 301 was published containing details of training events taking place in early 2017. Each of the below courses are now available to book on the LGA events website.

Understanding auto enrolment and the LGPS

Liverpool	10 January	Marriott Hotel
Birmingham	17 January	Novotel, Broad Street
London	24 January	Victoria Park Plaza
Cardiff	31 January	Marriott Hotel
Durham	7 February	Marriott Hotel
Exeter	21 February	Mercure Rougemont Hotel

Understanding the employer role

Birmingham	28 February	Novotel, Broad Street
Liverpool	7 March	Marriott Hotel
Cardiff	14 March	Marriott Hotel
London	21 March	Victoria Park Plaza
Leeds	4 April	Marriott Hotel
Exeter	11 April	Mercure Rougemont Hotel

Save the date - the LGPS Trustees' Conference will be held on 29-30 June 2017 in Bournemouth. Details to follow.

Legislation

United Kingdom

SI	Reference Title
2016/1005	The Registered Pension Schemes (Bridging Pensions) and Appointed Day 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 and one of the team's LGPS pensions advisers will get back to you as soon as possible.

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