

Local Government Pensions Committee
Secretary, Jeff Houston

LGPC Bulletin 151 – November 2016

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

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

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LGPS England and Wales

DCLG publication of late retirement guidance

On 4 October 2016, DCLG published new late retirement actuarial guidance for the LGPS in England and Wales. The effective date for the new guidance is 4 January 2017 and all late retirements taking place from this date onwards should be calculated using the factors contained in the new guidance.

On the same date, DCLG also circulated the following:

- A document summarising the transitional arrangements for the implementation of the new actuarial guidance circulated in April 2016, and
- A complete list of the 'in force' guidance for the LGPS, accurate to October 2016.

All of the documents circulated on 4 October 2016 are now available on the [DCLG Statutory Guidance](#) page of www.lgpsregs.org.

FE and SF college area reviews

In [bulletin 149](#) we mentioned the need for engagement between LGPS funds and colleges during the area review process and signposted information available on the GOV.UK and [Association of Colleges](#) websites.

We would also like to draw funds attention to an information note ([Appendix 1](#)) produced by DCLG to support the area review process; this document sets out information that colleges need to think about, in relation to pension issues, during the review process. It also provides information on the ways to manage the asset and liability position of colleges looking to change their current position e.g. merge with another college or close.

Communications Working Group

The communications working group met on 2 November 2016. Minutes from the meeting are available on the [Communications resources page](#) of www.lgpsregs.org, along with the communication work plan for 2016/17. Items of discussion included the national member website, annual benefit statements and AVCs in relation to Freedom and Choice.

Scheme Advisory Board (SAB) England and Wales

Pension fund accounts 2015/16

If your Fund has not already done so, please email liam.robson@local.gov.uk with a hyperlink to your pension fund's 2015/16 annual report and accounts. When submitted, these will be uploaded to the [Advisory Board's website](#).

LGPS Scotland

SPPA circular 7/2016

On 7 November, SPPA published LGPS Circular 7/2016 regarding ill health retirement under the Local Government Pension Scheme (Scotland) Regulations 2014.

The guidance sets out the responsibilities of the employer when they make an assessment to ascertain if a member meets the LGPS criteria for ill-health retirement under regulation 34 of the LGPS (Scotland) Regulations 2014. It also sets out the responsibilities of the 'appointed person' to assist them when making a 'first instance decision' (when reviewing an employer's decision at the request of the member under regulation 70 of the LGPS (Scotland) Regulations 2014).

The circular and the guidance are available on www.lgpsregs.org under [SPPA Circulars](#) as well as on the [SPPA website](#).

HM Treasury

Consultation on indexation and equalisation of GMP in public service pension schemes

On 28 November, HM Treasury [commenced a consultation](#) that proposes options for the indexation of GMP elements for members of public service pension schemes who will reach SPA on and after 6 December 2018.

On 6 April 2016 the government introduced the new State Pension, designed to radically simplify pension provision whilst ensuring that pensioners have security in retirement. This simplification removed layers of complexity from the system, harmonised the rate of National Insurance contributions paid by employees and employers and was intended to promote private saving by giving people a better understanding of the amount of support they can expect to receive from the State when they reach State Pension age.

Among the layers of complexity that has been removed is the Additional State Pension (AP), an earnings related element of the old state system.

The removal of AP has led to the need to consider how public service pension payments for a specific group of members should be increased in the future. Those who were in 'contracted-out' employment during the period 6 April 1978 to 5 April 1997 (inclusive) who accrued a guaranteed minimum pension (GMP) from their public service pension scheme and who will reach SPA after 5 December 2018 will be affected.

The consultation aims to consider two issues by putting forward a number of solutions. The two issues that are considered are:

1. How best to avoid the unequal payments to men and women in public service schemes that result from the abolition of AP? and
2. Whether, following the introduction of the new State Pension, public service pension schemes should, for someone who reaches SPa after 5 December 2018, provide full indexation on any GMP the public service pension scheme pays?

The consultation document is on the [Drafts and Consultations](#) page of www.lgpsregs.org and the consultation period closes on 20 February 2017.

HMRC

Pension Schemes Newsletter no. 82

On 4 November, HMRC [published issue no. 82](#) of their regular pension schemes newsletter.

Consultation on draft provision of information (amendment) regulations 2016

On 7 November, HMRC [commenced a technical consultation](#) on draft regulations, which would amend the Registered Pension Schemes (Provision of Information) Regulations 2006.

The draft Registered Pension Schemes (Provision of Information) (Amendment No. 2) Regulations 2016 propose changes to the information that must be provided where a scheme administrator makes payment of a lump sum death benefit to a trust (who is not a bare trustee¹).

Specifically, the regulations propose that when a lump sum death benefit is paid to a trust:

- the scheme administrator must provide prescribed information to the trustee on the amount of lump sum death benefit and tax paid by the scheme administrator, and
- trustees must pass on the same information if they then use the lump sum death benefit to make a payment to an individual beneficiary of the trust.

The new requirements are to ensure the trust beneficiary has the information they need in order to claim a refund of the excess tax paid by the scheme administrator over and above the tax at their marginal rate.

Comments should be sent to HMRC by 5 December 2016.

DWP

Private pensions: Consultation on contracting out amendments and GMP equalisation

DWP have [commenced a technical consultation](#) comprising three main components on which the Government seeks views:

- 1) Proposed amendments to legislation that the Government introduced to enable scheme administrators to administer formerly contracted out schemes. The amendments are intended to improve scheme administration and provide clarity.
- 2) A review of certain secondary legislation where the Government has previously committed to undertaking this. This applies to:
 - a. The transitional arrangements for the abolition of defined contribution contracting out in April 2012, and
 - b. The provisions of the Occupational and Stakeholder Pension Schemes (Miscellaneous Amendments) Regulations 2013
- 3) A proposal for a new methodology for equalising GMPs and potential changes to GMP conversion legislation that may be needed to enable equalisation to take place.

¹ Note: "bare trustee" means a person acting as trustee for-

- (a) an individual absolutely entitled as against the trustee,
- (b) two or more individuals who are so entitled,
- (c) an individual who would be so entitled but for being a minor or otherwise lacking legal capacity, or
- (d) two or more individuals who would be so entitled but for all or any of them being a minor or otherwise lacking legal capacity.

The consultation closes on 15 January 2017 and the consultation paper and annexes may be found on the [Drafts and Consultations](#) page of www.lgpsregs.org.

Publication of new state pension communications research

DWP have [published the findings](#) of tracking research they undertook between July 2014 and April 2016 on the communication of the new state pension.

The findings show that, of those within ten years' of their State Pension age:

- 77% of individuals were aware of the changes to the state pension system in April 2016 (compared with 56% in July 2014),
- 51% of individuals said they understood how the changes would affect them in April 2016 (compared with 36% in July 2014),
- 84% of individuals were aware of the link between National Insurance and the State Pension in April 2016 (compared with 68% in July 2014), and
- 78% of individuals knew where to go to find out more about the new State Pension in April 2016 (up from 67% in October 2015).

The Pensions Regulator

Publication of first DB pensions landscape report

The Pensions Regulator (TPR) [have published](#) the first of what is planned to be an annual report on the defined benefits pensions landscape, covering all private DB pension schemes registered with TPR.

Whilst the report does not currently cover public service defined benefit schemes like the LGPS, it is understood that the data contained in the report may be updated as comparable data from public service schemes becomes available.

Other News and Updates

Automatic enrolment and LTA protections

It has come to the LGPC Secretariat's attention that an employer's power to not automatically enrol an individual where they have reasonable grounds to believe they hold an active lifetime allowance protection has not been extended to include fixed protection 2016 or individual protection 2016. This goes against DWP's policy intent.

In their [consultation response](#) to the Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016, the Government confirmed the following:

"DWP is aware of the need to make a consequential amendment to our regulations that came into effect in April 2015, which provided for an exception to the employer duty where an employer has reasonable grounds to believe that a worker has transitional protection rights for their pension savings under HMRC legislation, to mirror this new tax protected status to be effective from the same date.

This will allow for the policy intent to continue so employers can take advantage of this exception for individuals that are not the core target audience for automatic enrolment.

This will also help prevent the risk of individuals being subjected to substantial tax charges should they fail to opt out.

*Our intention was to amend legislation to provide the discretion for employers under automatic enrolment legislation to be exempt from the duties in relation to anyone with the new tax protected status from 6 April 2016. It has, however, not proved possible to add the necessary provision to the Finance Act 2016, **which would have allowed the revised provisions to be backdated to 6 April 2016**. We therefore intend to introduce regulations at the earliest opportunity but cannot do so before the Finance Act 2016 becomes law.*

In the interim period, we have obtained agreement from HMRC to provide guidance in the Budget briefing on the steps individuals must take to protect their financial position in respect of their transitional protection rights for their pension savings under HMRC legislation. The Pensions Regulator will mirror this guidance their website. HMRC will also ensure their guidance is appropriately amended so that individuals are aware of the further exception under the new protection.”

Until an amendment is made to [the Occupational and Personal Pension Schemes \(Automatic Enrolment\) Regulations 2010 \[2010/772\]](#), an employer must automatically enrol or re-enrol an eligible jobholder into the LGPS where that individual holds fixed protection 2016 or individual protection 2016. Until those regulations are in place an individual with fixed protection 2016 must make sure they opt-out of automatic enrolment/re-enrolment to maintain their tax protection. An individual who holds individual protection 2016 will not lose their tax protection if they make further pension savings but any pension savings in excess of their protected lifetime allowance will be subject to a lifetime allowance charge.

The LGPC's [automatic enrolment guide](#) will shortly be updated to reflect this position.

Disclosure requirements for deferred members

The LGPC Secretariat have received a number of queries recently regarding the statutory requirements for disclosing information to a member who leaves the LGPS prior to attaining their normal pension age with an entitlement to a deferred benefit.

Preservation of Benefits Regulations 1991

Regulation 27A of [the Occupational Pension Schemes \(Preservation of Benefit\) Regulations 1991](#) sets out the information that must be provided by a pension scheme to a scheme member whose pensionable service terminates before he or she attains normal pension age. Specifically paragraphs (1) and (2) of regulation 27A state that a scheme must, in writing, provide such a member with information as to their 'rights and options' in the following circumstances:

- “(a) as of course to any person as soon as practicable and, in any event, within 2 months after he or his employer has notified the trustees that his pensionable service has terminated; and*
- (b) to any member or prospective member on request (not being a request made less than 12 months after the last occasion on which such information was furnished to him) as soon as practicable and, in any event, within 2 months after he requests it.”*

In the view of the LGPC Secretariat, the requirement to send an individual their 'rights and options' within two months of being informed of the termination of the member's pensionable service does not mean that details of the member's individual benefit entitlement (for example, their annual pension and survivor benefits) also have to be sent to the individual to satisfy regulation 27A. Instead, we take the view that 'rights and options' mean that the individual must be provided with broad information on:

- their 'rights' – i.e. the type of pensions right an early leaver from the scheme may have obtained (e.g. deferred benefit), and
- their 'options' – i.e. the options available for members in taking a right from the scheme (e.g. transferring their benefits),

This information must be supplied automatically within two months of the scheme being informed of the termination of the member's pensionable service, or within two months of a request from the member (where the member has not been provided such information in the previous 12 months).

Please note, there is still a requirement to provide the member with a notification of their deferred benefit (including monetary amounts) upon leaving the scheme, as soon as is practically possible, under regulation 73 (notification of first instance decisions) of the LGPS Regulations 2013 and regulation 71 of the LGPS (Scotland) Regulations 2014. The notification should include a statement detailing the amount of benefit, how it has been calculated and the right of appeal.

Disclosure Regulations 2013

In addition to the above, the requirements of [the Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013](#) must also be followed. Regulation 16 of the Disclosure Regulations 2013 say that certain information must be provided to deferred (and active and pension credit) members of a non-money purchase scheme on request from the member but only if such information has not been provided to the individual in the previous 12 months. Subject to that proviso, where such a request is made, this must be provided to the individual within two months.

For deferred members, parts 2 and 3 of schedule 5 of the Disclosure Regulations 2013 detail the information that must be provided following a request under regulation 16.

“Part 2 Information for active and deferred members

4 The date on which the member's pensionable service started.

5 A summary of the method for calculating the member's benefits and any survivors' benefits.

6 Details of how any deduction from benefits is calculated.

Part 3 Information for deferred members

7 The date the member's pensionable service ended.

8 The amount of the member's benefits and survivors' benefits payable from the date benefits are payable.

9 The amount of the member's pensionable remuneration on the date pensionable service ended.”

Summary

In short, in the view of the LGPC Secretariat, the above requirements mean that if a member leaves the scheme with an entitlement to a deferred benefit there is no

requirement to automatically provide the individual with details of their individual benefit entitlement (i.e. including monetary values) within two months of the fund being informed that the member has left, although they do have to provide such members with details of their 'rights and options' (i.e. that they are entitled to a deferred benefit and what their options in respect of that deferred benefit are, including any right to a transfer value). However, there is a requirement to provide the individual with details of their deferred benefit entitlement (including monetary values) under the LGPS regulations and this must be done as soon as is practically possible. In addition, if a deferred member requests a statement of their benefit entitlement (including monetary values), this must be provided to the individual within two months of that request being made (so long as the individual has not already received that information in the previous 12 months).

Members leaving the LGPS prior to normal pension age *without* an entitlement to a deferred benefit

For completeness, the requirements in respect of early leavers who leave *without* an entitlement to a deferred benefit (i.e. those who leave with an entitlement to a refund, having had more than three months' but less than two years' membership) are detailed on page 49 and 50 of the [Freedom and Choice guide](#).

Autumn Statement 2016

On 23 November, the Chancellor of the Exchequer, Philip Hammond MP, gave the [2016 Autumn Statement](#) which included the announcements below.

In his speech, the Chancellor announced that the annual budget will in future take place in autumn and that this would therefore be the last autumn statement. An annual spring statement, with a more limited scope than the current autumn statement, will be given in each spring from 2018 onwards. To transition to the new system, there will be two budgets in 2017.

Salary sacrifice

Following the Government consultation undertaken earlier this year (see [bulletin 148](#)) on limiting the salary sacrifice benefits that achieve tax and National Insurance advantages, the Chancellor confirmed in the statement that the Government plan to proceed with the changes.

Under the reforms, childcare vouchers/workplace nursery provision, the Cycle to Work scheme, pensions (including advice) and ultra-low emission cars will retain their tax and NI advantages but most other benefits will lose these.

Most of the reforms will come into effect in April 2017, although arrangements already in place before April 2017 will maintain the advantages until April 2018, and arrangements for (non ultra-low emission) cars, accommodation and school fees will keep the advantages until April 2021.

Reduction to the money purchase annual allowance

The Government have announced that they plan to reduce the money purchase annual allowance – the maximum annual amount individuals can contribute to a defined contribution pensions after having previously accessed a pension flexibly – from £10,000 to £4,000 from April 2017.

A [technical consultation was launched](#) to cover the detail, with responses to be submitted by 15 February 2017.

Consultation on tackling pensions scams

The Government also announced that they plan to undertake a consultation before the end of the year on steps to tackle pension scams, including ending 'cold calling'. In addition, the consultation will contain options for giving schemes greater power to block suspicious transfers.

Personal allowance and higher rate threshold

The government will meet its commitment to raise the income tax personal allowance to £12,500 and the higher rate threshold to £50,000 by the end of this Parliament. For 2017/18, the personal allowance will rise to £11,500 and the higher rate threshold to £45,000. Once the personal allowance reaches £12,500, it will then rise in line with CPI.

National Insurance thresholds

The National Insurance secondary (employer) threshold and the National Insurance primary (employee) threshold will be aligned from April 2017, meaning that both employees and employers will start paying National Insurance on weekly earnings above £157. This will simplify the payment of National Insurance for employers.

Termination payments

As announced at Budget 2016, from April 2018 termination payments over £30,000, which are subject to income tax, will also be subject to employer NICs. Following a technical consultation, tax will only be applied to the equivalent of an employee's basic pay if their notice is not worked, making it simpler to apply the new rules. The government will monitor this change and address any further manipulation. The first £30,000 of a termination payment will remain exempt from income tax and National Insurance.

Contacts for NHS Pensions

In February 2016, NHS Pensions appointed a Stakeholder Engagement Team to improve their relationships with both internal and external stakeholders. The team comprises a number of stakeholder engagement managers, with Jonathan Leach (jonathan.leach1@nhs.net), responsible for engaging with local government.

Attached are a number of appendices relating to the work of the stakeholder engagement team.

1. **[Appendix 2](#) - Employer Organisation Contact Details form**

This form allows employers to update the records of the key stakeholders within their employing authority. It also allows additional staff that have either responsibilities for, or an interest in, the NHS Pension Scheme to subscribe to the NHS Pensions Local Authority Newsletter along with their monthly Technical Newsletter.

NHS Pensions would ask that all employers complete this information and forward it to the email address listed on the form. It is important that this information remains up to date and the information should be reviewed on a regular basis.

2. **[Appendix 3](#) - Local Government Presentation**

This contains the key information from an NHS Pensions presentation in respect of their Stakeholder Engagement Team and their NHS Pensions contacts.

3. **[Appendix 4](#) - Local Government Newsletter**

A newsletter which NHS Pensions send to local authorities. This document has links to a survey which NHS Pensions have asked all local authorities to complete. The completion period for this survey has been extended until the end of December.

NHS Pensions would welcome all feedback from local government to allow them to improve the service they provide.

NAO report on introduction of the new state pension

The National Audit Office (NAO) have [published a report](#) on DWP's management of the introduction of the new state pension. The report finds that the introduction of the changes was successfully managed by DWP but that it is not yet clear whether the simplified system will improve the public's understanding of retirement savings.

Call for evidence on pension funds and social investment

The Law Commission has [commenced a call for evidence](#) on pension funds and social investment, following a request from the Minister for Civil Society, Rob Wilson MP.

The Commission has been asked to provide an accessible account of the law in this area, and to consider the legal or regulatory barriers to social investment. The Commission plans to publish a report in May 2017.

Whilst the background to the call for evidence is couched in terms of pension schemes in general, the specific questions asked in the document relate solely to defined contribution schemes. It is understood this is because the Law Commission's 2014 report, [Fiduciary Duties of Investment Intermediaries](#), already covered social investment in defined benefit pension schemes in detail.

The call for evidence closes on 15 December 2016.

PLSA report on adequacy of retirement income

The PLSA [published a report](#) in November on the adequacy of retirement incomes generated from the UK pensions system. The report found that automatic enrolment would deliver significant improvements to the retirement outcomes of millions in the UK but that, of the 25.5 million people in employment:

- 1.6 million people, were still at high risk of falling short of a minimum income standard (MIS) in retirement; and
- 13.6 million people were still at risk of not meeting their target replacement rate (TRR).

The report recommends the establishment of an independent commission to, amongst other things, review existing measures of adequacy and to make recommendations for increasing minimum contribution levels to 12% of qualifying earnings.

Updates to lgpsregs.org

During November, the Withdrawn Guides pages of www.lgpsregs.org [[England and Wales](#) / [Scotland](#)] were updated to include the following documents:

- Q&A for funds on transfers to DC – *this document was originally published at the time of the introduction of Freedom and Choice. The Freedom and Choice*

technical note now provides a more detailed technical overview of the reforms for LGPS pensions funds.

- HR and Payroll FAQs [E&W only] – *this document was originally published at the time the LGPS 2014 reforms were being implemented. HR and Payroll sections still requiring information on the administration of LGPS 2014 should refer to the HR and Payroll guides.*

The [minutes of the September 2016 meeting](#) of technical group have now been uploaded to www.lgpsregs.org.

Training

On 26 October 2016, [training circular 301](#) was published containing details of training events taking place in early 2017. Details of each of the below courses are now available on the [LGA events](#) website.

Understanding auto enrolment and the LGPS

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

Understanding the employer role

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

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

Legislation

United Kingdom

SI	Reference Title
2016/1141	The State Pension Revaluation for Transitional Pensions Order 2016
2016/1136	The Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016
2016/1102	The Occupational Pensions (Revaluation) Order 2016
2016/1079	The Financial Services and Markets Act 2000 (Early Exit Pension Charges) Regulations 2016
2016/1036	The Employer-Financed Retirement Benefits (Excluded Benefits for Tax Purposes) (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 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
SPPA
Regional Directors
Private clients

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