

## LGPC Bulletin 163 – October 2017

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

[Clarification regarding ill health retirement process](#)

[Assistant coroners & eligibility for LGPS](#)

[Publication of LGPS statistics for 2016/17](#)

#### HMRC

[Countdown bulletin 29](#)

[HMRC Newsletter 92 – October 2017](#)

#### Other News and Updates

[LGPS Frameworks – request for information](#)

[A guide to how increases are applied to LGPS pensions in payment with a GMP entitlement](#)

[Automatic enrolment and transitional delay](#)

[September 2017 rate of CPI confirmed](#)

[Tell Us Once](#)

[Pensions Dashboard update](#)

[The Pensions Ombudsman Service newsletter](#)

[The LGA has moved back to Westminster](#)

#### The wider landscape

#### Training

#### Useful links

## LGPS England and Wales

### Clarification regarding ill health retirement process

The Pensions Ombudsman Service (TPOS) has asked the LGPC Secretariat to alert employers to a trend they have identified whilst dealing with LGPS ill health retirement complaints.

The situation occurs where a member is awarded a tier 3 pension and takes this decision to appeal under IDRPs, resulting in a fresh medical opinion being sought. In some cases the appeal process has happened to coincide with the 18 month review of the tier 3 pension and the employer has wrapped the two processes together so that one opinion is sought from the IRMP to cover both.

This is flawed, because, the two opinions are looking at two separate things:

- The opinion obtained in respect of the appeal of the original decision is looking at whether an error was made by the IRMP in considering the case initially or whether new evidence has come to light since the IRMP's initial decision which suggests the member should have been awarded a higher tier of ill-health pension at the time of the original application.
- The opinion obtained at the 18 month review is to consider whether, at the date of the review, the member remains incapable of undertaking gainful employment, and if they are when they will be likely to be capable of undertaking gainful employment again in the future, if at all.

Whilst, in the view of both TPOS and the LGPC Secretariat, there would not be a problem with an employer commissioning the same IRMP to review the member's health status for both purposes, in such cases it needs to be clear to the IRMP that both need to be considered separately to avoid an improper decision being made.

TPOS have highlighted the recent determination [PO-13071](#) to demonstrate this. The determination also makes clear that employers themselves need to understand the differences between obtaining a second opinion on account of an appeal and obtaining an opinion for the 18 month review of a tier 3 pension.

### Assistant coroners & eligibility for LGPS

The LGPC Secretariat have received a Counsel's view on the eligibility of assistant coroners for membership of the LGPS in England and Wales, which concludes that assistant coroners are eligible for membership of the scheme.

Part 4 of Schedule 2 of the LGPS Regulations 2013 confirms that coroners are eligible for membership of the LGPS and that the Scheme employer for a coroner is the local authority which appointed them. However, the term 'coroner' is not defined in the 2013 Regulations, leaving open the question as to the types of coroner this term covered, particularly in light of the Coroners and Justice Act 2009 (the 2009 Act) which introduced a class of coroner called an assistant coroner.

Counsel's view is that the use of the term 'coroner' with a small 'c' in the 2013 Regulations along with the fact that the 2013 Regulations do not attempt to define the term means, in short, that the Regulations cover all classes of coroner covered by the

2009 Act. As well as meaning assistant coroners are eligible for the scheme, this also confirms our previously held view that senior coroners and area coroners are both eligible for the LGPS too.

### Publication of LGPS statistics for 2016/17

DCLG have [published their annual statistics](#) on the LGPS in England and Wales, covering the 2016/17 scheme year.

The statistics are collated from the SF3 forms completed by LGPS funds each year and show the following (removing the effect of the merger of the Richmond and Wandsworth pension funds during 2016/17):

- Total expenditure in 2016/17 was £11.8 billion, up £0.4 billion from 2015/16.
- Total income in 2016/17 was £14.7 billion, up £0.7 billion from 2015/16.
- Overall, total expenditure was 81% of income in 2016/17, the same as in 2015/16.
- The market value of LGPS funds was £259 billion at the end of March 2017, an increase of £45 billion or 21% on March 2016.
- Active membership was up to 1,964,000 in 2016/17, from 1,943,000 in 2015/16.
- Active membership as a proportion of total membership was 35.16% in 2016/17, down from 36.00% in 2015/16.

Whereas in previous years SF3 data for LGPS funds in England and LGPS funds in Wales were published separately, for 2016/17 the data sets and Statistical Release have been combined to reflect the scheme as a whole.

## HMRC

### Countdown bulletin 29

HMRC have [published issue 29](#) of their countdown bulletin providing news and updates for scheme administrators on the ending of contracting-out and the reconciliation of contracted-out records.

### HMRC Newsletter 92 – October 2017

HMRC have published [newsletter 92](#) covering pension flexibility statistics, registration statistics, relief at source for Scottish Income Tax, drawdown pension tables, the new pensions online service, paying tax to HMRC and the lifetime allowance service.

## Other News and Updates

### LGPS Frameworks – request for information

At Technical Group in September, it was agreed that the LGPS Secretariat would begin to host a list of current frameworks available for use by LGPS administering authorities on [www.lgpsregs.org](http://www.lgpsregs.org) and [www.scotlgpsregs.org](http://www.scotlgpsregs.org).

To enable us to do this, we would be grateful if those organisations who run LGPS frameworks would be able to provide us with the following information for each framework they run:

Description of framework – i.e. the service provided	Service providers on the framework	Date framework ends (if at all)	Eligible participants

?	?	?	?
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We would also be grateful if each framework provider could provide us with:

- their postal address,
- their web address (if relevant), and
- an email address and telephone number for an appropriate named contact.

It is our intention to begin hosting this information on our websites in early December.

For reference, a list of available frameworks that the shadow advisory board for the LGPS in England and Wales compiled in summer 2014 is attached as [appendix 1](#).

Please note that, in maintaining this list, it will be the responsibility of host organisations to ensure that the information held on the information is accurate and kept up-to-date.

### **A guide to how increases are applied to LGPS pensions in payment with a GMP entitlement**

Following the end of contracting-out on 5 April 2016, the Secretariat has received a number of queries concerning how increases should be applied to LGPS pensions. We are currently in the process of producing a scheme administrator guide to assist funds in this area called 'A guide to how increases are applied to LGPS pensions in payment with a GMP entitlement' and we will publish this as soon as it is finalised.

In the meantime, to help us get the guide published as soon as possible, we would ask if funds could refrain from submitting individual queries on this topic.

It is important to note that there have been no changes to the over-riding legislation concerning the application of increases to LGPS pensions in payment to members and survivors nor to the Guaranteed Minimum Pension (GMP) element of the pension. This means that GMPs must continue to be assessed for entitlement and from the effective date recorded on the pensions payroll, both for survivors and for retired members in accordance with the over-riding legislation (see below).

Whilst there have been no changes to the impact of the over-riding legislation, the Government announced an [interim solution](#) for the indexation of GMPs in March 2016. The interim solution means that all pensioners (including survivors) who are entitled to the payment of a GMP, who reach SPa on and after 6 April 2016 and prior to 6 December 2018 (and who are not in receipt of additional pension from HMRC), should be treated as AP<GMP from the effective date. This means that in all such cases funds should apply increases annually on:

- the first Monday on or after each 6 April in respect of the Pensions Increase (Review) Orders, and
- each 6 April in respect of the Guaranteed Minimum Pensions Increase Orders)

to the relevant elements of the member's pension, including the GMP component(s) as appropriate.

This was confirmed in paragraphs 7 and 8 of the [Ministerial Direction](#) published on 7 April 2016, issued under section 59A of the Social Security Pensions Act 1975.

### Over-riding Legislation

- sections 13 and 17 (as appropriate) of the Pension Schemes Act 1993, and
- regulations 21 and 22 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 [SI 2015/1677] formerly regulations 57 and 58 (the equivalent provisions) of the Occupational Pension Schemes (Contracting-out) Regulations 1996 [SI 1996/1172].
- section 59 of the SSPA 1975, or
- section 59A of the SSPA 1975.

### Automatic enrolment and transitional delay

In [our last bulletin](#), we reported the following:

*“In addition, employers should also be aware that [TPR’s guidance](#) (see paragraphs 73 to 78) states that where an individual to whom transitional delay was applied is not an eligible jobholder on 1 October 2017 the employer must keep assessing the worker each pay reference as usual. If at any point after 1 October 2017 the eligible jobholder criteria are met, unless one of the exceptions apply, the individual must be automatically enrolled with effect from 1 October 2017 i.e. active membership must be backdated to start from 1 October 2017 irrespective of the date the employee first meets the eligible jobholder criteria after 1 October 2017. Obviously, this could have serious consequences if employers are required to backdate contributions for several years. We have been seeking clarification from DWP on this and will provide further information as soon as it becomes available.”*

We have now received confirmation from DWP that they agree with TPR’s guidance which, in their view, is consistent with the requirements of the Pensions Act 2008 (PA2008). In their view, the PA2008 requires this approach because where an eligible jobholder has been subject to transitional delay the start date for active membership is the day after the end of transitional delay (i.e. 1 October 2017).

Whilst this is simple enough if the individual is still an eligible jobholder on 1 October 2017 as they would be brought into the scheme at that point (unless one of the exceptions apply), it becomes more complex if the individual is no longer an eligible jobholder on 1 October 2017. DWP’s view is that the start date for active membership remains 1 October 2017, but there is no requirement for them to be brought into the scheme until they become an eligible jobholder again. If and when they do subsequently become an eligible jobholder again, the start date for active membership will remain 1 October 2017 and this will mean that their membership should be backdated to 1 October 2017.

DWP have stated that, in light of the issues that we have raised, they will review the treatment of these individuals. However, we do not expect that DWP review will fundamentally alter the situation outlined here and we therefore advise funds to adhere to the content of TPR’s guidance, particularly paragraphs 73 to 78, in the event of a case arising.

It is important to note that the exception that prevents employers automatically enrolling those who opted out of the LGPS more than 12 months before 2 October 2017 (as

discussed further in last month's bulletin) will continue to apply meaning that employers will only need to backdate membership of the LGPS in a minority of cases where:

- a) transitional delay applied to the individual,
- b) the individual was not an eligible jobholder on 1 October 2017,
- c) the individual subsequently became an eligible jobholder, and
- d) the individual had not previously opted out of the LGPS more than 12 months before their automatic enrolment date.

### September 2017 rate of CPI

On 17 October 2017, [the Office for National Statistics \(ONS\) announced](#) that the Consumer Prices Index (CPI) rate of inflation for September 2017 was 3.0%.

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 that revaluation and pensions increase for April 2018 will apply in the LGPS at a rate of 3.0%.

### Tell Us Once

As mentioned in the [September bulletin](#), a representative of the Tell Us Once team at DWP will be attending Technical Group in December. Any feedback or suggestions for how the Tell Us Once service could be developed or enhanced should be fed back through funds' Technical Group representatives to be raised at the meeting.

During October, DWP published a circulated a 'handy tips' guide advising funds how to change their passwords. This guide is attached as [appendix 2](#).

The Tell Us Once team have also recently published their latest bi-annual newsletter, providing news and update on the service. The newsletter is attached as [appendix 3](#).

### Pensions Dashboard update

During October, there were a couple of significant announcements regarding the development of the [Pensions Dashboard](#):

- The Association of British Insurers (ABI), the organisation which steered the development of the Dashboard prototype, [published a report](#) containing a series of policy recommendations on how to develop a Dashboard that would bring about lasting benefits for pensions savers in the UK.
- At the PLSA Conference, Guy Opperman MP, Minister for Pensions and Financial Inclusion, announced that DWP will take over responsibility for the introduction of the Pensions Dashboard from HM Treasury. DWP's involvement will begin with the undertaking of a feasibility study in the coming months, with the Department due to provide a fuller update on its plans in spring.

### The Pensions Ombudsman Service (TPOS) newsletter

TPOS have published the second of their stakeholder newsletters which is attached to this bulletin as [appendix 4](#). As ever, if LGPS funds have ideas for what TPOS could include in future newsletters, please let us know so that we can pass these on to the Ombudsman Service.

## The LGA has moved back to Westminster

As of 27 October 2017, the LGA have moved back to our offices at Smith Square, Westminster. The refurbished offices are now known as 18 Smith Square (replacing the old name of Local Government House).

Funds and employers can therefore contact the LGPC Secretariat by writing to:

LGPC Secretariat  
Local Government Association  
18 Smith Square  
Westminster  
London  
SW1P 3HZ

## The wider landscape

- TPR has [published a report](#) regarding employers' understanding of automatic enrolment following research undertaken in spring 2017.
- PASA has [announced plans](#) to launch a voluntary mediation service for the transfer of administration services from one provider to another.
- DWP has published [an evaluation of the service](#) provided by Pension Wise following surveys of those who have used the service.
- The People's Pension, TPAS and State Street Global Advisors have [published a report](#) into research they commissioned into communication biases in the pensions industry.
- PLSA has [commenced a consultation](#) on ideas to improve retirement outcomes in the UK.
- PLSA has published three 'Made Simple' guides:
  - [Fiduciary management made simple](#)
  - [Integrated risk management made simple](#)
  - [Good quality data for the private sector](#)
- The Organisation for Economic Co-operation and Development (OECD) has published [Pension Markets in Focus 2017](#), its annual report on pensions investments around the world and how these are performing.
- Mercer has published its [Melbourne Mercer Global Pension Index 2017](#). The index is published each year comparing pensions systems of countries around the world and ranking them by sustainability, adequacy and integrity.

## Training

Following a successful recruitment exercise undertaken earlier in the summer, Karl White has joined the LGPC Secretariat as the team's new Pensions Adviser for training. Karl comes with a wealth of LGPS experience, having worked for a number of LGPS pension funds, including the Ealing, Harrow and Shropshire funds, and most recently for Cheshire Pension Fund. In recent years, Karl has also been a CIPP tutor and in 2015 spent time with the LGA pensions team on a six month secondment to provide support to the scheme advisory board.

Details of the team's training plan for 2018 will be circulated once this is agreed and finalised.

Places for [day 3](#) of the LGA's 2017 Fundamentals training programme in Leeds remain available. Day 3 in Leeds takes place on 5 December at the Park Plaza Hotel, Boar Lane, City Square, Leeds, LS1 5NS.

All other dates for this year's programme are now fully booked. Day 1 proved a great success. Fundamentals will run again next year with the same timetable October till December 2018.

London	Day 2	<a href="#">15 November</a>	FULLY BOOKED
	Day 3	<a href="#">13 December</a>	FULLY BOOKED
Cardiff	Day 2	<a href="#">29 November</a>	FULLY BOOKED
	Day 3	<a href="#">20 December</a>	FULLY BOOKED

If you would like to be put on the reserve list for any of these dates please email [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk)

### Useful Links

[LGA Pensions page](#)

[LGPS member website](#) (England and Wales)

[LGPS 2015 member website](#) (Scotland)

[LGPS Advisory Board website](#) (England and Wales)

[LGPS Regulations and Guidance website](#) (England and Wales)

[LGPS Regulations and Guidance website](#) (Scotland)

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

### 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.***

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

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#### **Terry Edwards (Senior Pensions Adviser – LGPC Secretariat)**

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

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**Distribution sheet**

Pension managers (internal) of administering authorities

Pension managers (outsourced) and administering authority client managers

Local Government Pensions Committee

Trade unions

CLG

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