

LGPC Bulletin 164 – November 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

[Ill health retirements and obtaining narrative reports from IRMPs](#)
[DCLG publish template documents for scheme employers seeking to move administering authorities](#)
[SAB tier 3 employer project – publication of surveys](#)
[Submission of 2016/17 annual reports - reminder](#)
[SAB letter to the Minister regarding survivor benefits](#)
[Legal opinion on assistant coroners published](#)

LGPS Scotland

[SPPA consultation on draft LGPS \(Scotland\) Regulations 2018](#)

HMRC

[Finance \(No. 2\) Act 2017](#)
[Countdown bulletin 30](#)

Other News and Updates

[Launch of Your LGPS Contacts](#)
[Legal opinion on GDPR and the LGPS](#)
[Ban on pensions cold calling – draft legislation to be brought forward in 2018](#)
[Pensions Ombudsman legal forum](#)
[Communications working group – meeting minutes and work plan published](#)
[Autumn Budget 2017](#)
[Automatic enrolment – brief guide updated](#)
[Freedom & Choice – transfer forms updated and withdrawal of guide](#)

Training

[The wider landscape](#)

[Legislation](#)

LGPS England and Wales

Ill health retirements and obtaining narrative reports from IRMPs

The Pensions Ombudsman Service (TPOS) have asked us to highlight the importance of scheme employers obtaining narrative reports from independent registered medical practitioners (IRMPs) in dealing with ill-health retirement cases.

Narrative reports are reports that help employers to understand the reasoning behind the medical opinion the IRMP has given. As the decision to award an ill-health retirement is that of the employer, a full understanding of the IRMP's reasoning will be important to minimise the risk of the employer making a poor or flawed decision, potentially resulting in a mal-administration claim from the member.

We have been made aware that some IRMPs are of the opinion that providing such a report would be beyond their remit. However, DCLG's [ill-health retirement statutory guidance](#), to which IRMPs and scheme employers are both obliged to have regard under regulation 36(4) of the LGPS Regulations 2013, makes clear that obtaining such a report is recommended.

Extract from paragraph 20:

The Scheme employer will need to understand the reasoning of the independent registered medical practitioner when making their decision. So it is, therefore, recommended that the independent registered medical practitioner provides a narrative report to accompany the certificate. Further, where the independent registered medical practitioner is of the opinion that the applicant could work in their current role with adjustments, or in an alternative role that is likely to be available with that employer, it is appropriate to include advice on this in the narrative report if such advice has not already been given to the Scheme employer previously.

In the view of the LGPC Secretariat, where a scheme employer has made a decision to expect a narrative report to be supplied by an IRMP, they should make this clear at the time of commissioning the IRMP to provide a medical opinion. If an IRMP refuses to do this, the scheme employer may wish to consider appointing a different IRMP to avoid any risk of them making a poorly informed decision.

In highlighting this, TPOS have drawn attention to [PO-14747](#), which demonstrates the importance of the employer understanding the rationale and reasoning behind an IRMP's medical opinion when making their decision.

DCLG publish template documents for scheme employers seeking to move administering authorities

DCLG have published two template documents to assist LGPS employers in the process of making an application, by way of a Secretary of State Direction, to substitute an administering authority under Part 2 of Schedule 3 of the LGPS Regulations 2013.

The two documents have been uploaded to the [Other Government Documents](#) page on www.lgpsregs.org (under the sub-heading Other Documents) and consist of the following:

- Application form – to be completed by the scheme employer containing the relevant details regarding the application. This form can be used by any scheme employer looking to make an application to substitute an administering authority for another.
- Template Direction for College mergers – this is a template letter for completion by the legal representative of the scheme employer(s) making the application. The legal representative should complete the gaps in the letter so that the completed version can be sent by DCLG to the applicant(s) to confirm that their application has been approved. This document can be used by colleges who are merging and, as a consequence, wish to merge or move their LGPS memberships into another fund. Where a college is making an application to substitute an administering authority, the application form (mentioned in the bullet point above) must also be completed.

Completed applications, template directions and any questions or queries in respect of the forms should be sent to LGPensions@communities.gsi.gov.uk.

SAB tier 3 employer project – publication of surveys

The Scheme Advisory Board for the LGPS in England and Wales (SAB) has appointed Aon Hewitt to help them in their review of Tier 3 employers in the LGPS. Tier 3 employers are all those with no tax-payer backing (i.e. colleges, universities, housing associations, charities and any admission bodies with no guarantee from a Council, academy or other tax-payer backed employer).

For clarity, admission bodies falling within paragraph 1(d) of Part 3 of Schedule 2 to the LGPS 2013 Regulations, i.e. bodies formerly known as transferee admission bodies, are not classed as Tier 3 employers because they have a statutory guarantee from the related employer.

The aims of the exercise are to identify:

- the duties, benefits, issues and challenges for LGPS funds, Tier 3 employers and their scheme members with regard to their participation in the LGPS
- options for change that would improve the funding, administration, participation and member experience with regard to Tier 3 employers.

A key element of this project is information gathering and, on 27th November, the SAB launched three surveys for completion by:

- a) LGPS administering authorities - <http://lgpsregs.org/survey/administering-authorities.php>,
- b) Tier 3 employers - <http://lgpsregs.org/survey/employer.php>, and
- c) LGPS members employed by tier 3 employers - <https://lgpsmember.org/survey/member.php> .

At the time of the surveys' launch on 27th November, template emails for the employer and member surveys were circulated to all administering authorities and we ask that these are forwarded on to each fund's relevant employers.

The surveys are due to close on 31st December 2017.

Submission of 2016/17 annual reports - reminder

The SAB for the LGPS in England and Wales are in the early stages of producing the scheme annual report for 2016/17 (due for publication in Spring 2018) and would like to remind funds in England and Wales to send their annual reports for the 2016/17 year to [Liam Robson](#) as soon as these have been finalised.

The reports that have already been submitted are available on www.lgpsboard.org under [Fund Annual Reports 2017](#).

SAB letter to the Minister regarding survivor benefits

As agreed by the Scheme Advisory Board on the 16th November, the Chair, Councillor Roger Phillips, wrote to the Local Government Minister, Marcus Jones on the 27th November setting out the Board's intention to explore the scope for eliminating any existing inequalities in the scheme regarding survivor benefits.

The letter went on to confirm that the Government Actuary's Department should be commissioned to cost any such proposal ranging from full retrospection to equalising future survivor benefits only. At this stage, and in the absence of any such costing, the Board has no firm view on how any such proposal should be applied.

In the meantime, representations will continue to be made to DCLG for clarification on the extent to which the Brewster judgement applies to the LGPS in England and Wales.

Legal opinion on assistant coroners published

In [last month's bulletin](#) (no. 163), we provided details of a Counsel opinion that had been obtained regarding the eligibility of assistant coroners for the LGPS.

Since that bulletin was circulated, we have had confirmation that the opinion can be published on our website, and this is now available on the legal opinions pages of www.lgpsregs.org at <http://lgpsregs.org/resources/opinions.php>.

LGPS Scotland

SPPA consultation on draft LGPS (Scotland) Regulations 2018

SPPA have commenced a consultation on a new set of main scheme regulations for the LGPS in Scotland, the draft LGPS (Scotland) Regulations 2018. The draft regulations are intended to be a consolidation of the following regulations together with additional amendments:

- The Local Government Pension Scheme (Scotland) Regulations 2014 [SI 2014/164]
- The Local Government Pension Scheme (Scotland) Amendment Regulations 2015 [SI 2015/87]

- The Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2015[2015/448]
- The Local Government Pension Scheme (Scotland) Amendment Regulations 2016 [SI 2016/32]

The consultation documents, along with a pro forma for responding, can be found on [the SPPA website](#). The documents are also available under [Scheme Consultations](#) on www.scotlgpsregs.org.

The consultation closes on 1st January 2018 and the LGA response will be uploaded to www.scotlgpsregs.org once it has been submitted.

HMRC

Finance (No. 2) Act 2017

In November, the Finance (No. 2) Act 2017 received royal assent. The Act includes a number of provisions that were not passed into law earlier this year due to the June 2017 general election (see [bulletin 157](#) for more details).

For pensions, the passage of the Act has two main impacts:

- the reduction in the money purchase annual allowance from £10,000 to £4,000 retrospective to 6th April 2017, and
- changes to the Income Tax (Earnings and Pensions) Act 2003 to mean that a pensions advice allowance payment (PAAP) of up to £500 under the Registered Pension Schemes (Authorised Payments) (Amendment) Regulations 2009 is exempt from income tax.

In respect of the latter bullet point, it should be noted that PAAPs cannot be paid from an LGPS in-house AVCs unless and until there are amendments to the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014 (or potentially the draft LGPS (Scotland) Regulations 2018 when enacted) to permit such payments.

Countdown bulletin 30

In early November, HMRC issued [countdown bulletin 30](#) including the following important announcement regarding their plans following the end of contracted out reconciliation in December 2018:

“Communication to individual scheme members

In previous countdown bulletins we have said that HM Revenue and Customs (HMRC) would start to issue statements to individuals after December 2018 following the reconciliation process. HMRC and the Department for Work and Pensions (DWP) were considering whether this communication should include a Guaranteed Minimum Pension (GMP) calculation. It has now been agreed with the DWP that we won't send any communications to individuals as previously planned. This change is being made because there have been developments in the provision of pension scheme information since we first started the changes to end contracting-out. The State Pension Forecast service 'Check your State

Pension' is now available to everyone on GOV.UK or via the Personal Tax Account.

The Pensions Dashboard is planned to be available from 2019, and we would encourage all pension schemes to participate in the Dashboard to make as much information as possible available to scheme members. The Pension Tracing Service also continues to be available for individuals to trace lost or missing pensions (please don't refer individual members to HMRC)."

The bulletin also includes updates on the timescales for resolving queries, which LGPS administrators are advised to be aware of.

Other News and Updates

Launch of Your LGPS Contacts

On 21st November 2017, the LGA launched [Your LGPS Contacts](#), a web-based system via which LGPS administering authorities in England, Scotland and Wales can maintain and update the following contacts held by the LGA pension team:

- Pensions manager details for display on www.lgpsregs.org and www.scotlgpsregs.org
- Administration contracts for our administration distribution list e.g. for the monthly bulletin
- Scheme member contacts for display on www.lgpsmember.org (and www.scotlgpsmember.org once launched)
- Finance and investment contacts for our finance and investments distribution list
- Political contacts (pensions committees and local pension boards).

At launch, individual emails were sent to all LGPS administering authorities containing a user guide for the system ([appendix 1](#)) and log-in details for their section of the site.

Emails sent to funds by the LGA will now be sent based on the contacts contained on Your LGPS Contacts and so we strongly urge funds to review these details and update them where necessary.

Please note the [LGA website](#) will no longer hold Pension Managers' contact details.

If you have any queries, or have any problems with using the system, please do not hesitate to get in touch.

Legal opinion on GDPR and the LGPS

On 20th November 2017, the LGPC Secretariat circulated a legal opinion from the legal firm Squire Patton Boggs on a number of questions regarding the implications of the EU's General Data Protection Regulation (GDPR) for the LGPS.

GDPR provides for a new standard of data protection for individuals in the European Union and comes into force throughout the EU on 25 May 2018.

The opinion is available on the legal opinions pages of www.lgpsregs.org and www.scotlgpsregs.org, at <http://lgpsregs.org/resources/opinions.php> and <http://scotlgpsregs.org/resources/opinions.php> respectively.

The topics Squire Patton Boggs have considered in the opinion include:

- Whether member consent is needed to process LGPS members' personal data for the purposes of the basic administration of the scheme
- The legal power for administering authorities to share personal data with AVC providers, a) where a member has entered into an AVC arrangement, and b) for marketing purposes to those who have not entered into AVC arrangements
- The retention of personal data by an administering authority where there is no remaining liability for an individual
- The 'right to erasure' and how this relates to the LGPS
- The 'right to restrict processing' and how this relates to the LGPS
- 'Privacy by design' and how this relates to the LGPS
- The formal role each of the following parties has in respect of LGPS member data under GDPR – i.e. whether data controller, data processor or joint data controller:
 - administering authority
 - scheme employer
 - fund actuary
- What GDPR means for practices whereby the administering authority gives the scheme employer access to parts of the pension administration system in order to view or update member records.

As reported in [bulletin 160](#), work is also underway at a national level by the communications working group to produce a number of sample documents for LGPS administering authorities to make use of in their preparations for GDPR. These consist of the following:

- A privacy impact assessment (PIA),
- A Fair Processing notice (FPN),
- An incident report form, and
- A data protection policy.

The communications working group reviewed draft versions of these documents at their meeting in October and the final versions will be circulated to all administering authorities in early 2018.

Ban on pensions cold calling – draft legislation to be brought forward in 2018

In [bulletin 161](#), we reported the Government's response to the pension scams consultation that took place in late 2016 and early 2017. In that response the Government announced that, they intended to bring forward measures to restrict the likelihood of pension scams occurring, including the introduction of a cold calling ban. However, on timescales for the implementation of such a measure, the Government were less clear and only said:

“The Government intend to work on the final and complex details of the ban on cold calling and then bring forward legislation when Parliamentary time allows.”

On the introduction of the Financial Guidance and Claims Bill into Parliament, provisions for the introduction of a cold calling ban were not included. However, in October, the Government were defeated in the House of Lords during the passage of the Financial Guidance and Claims Bill, when peers voted to amend the Act to include a pension cold calling ban.

This defeat appears to have changed the Government’s approach and in response to a written question in November, Stephen Barclay, Economic Secretary to the Treasury responded to confirm draft legislation would now be brought forward in early 2018:

“The government is committed to banning pensions cold-calling. Following a consultation, the government will bring forward draft legislation for scrutiny to ban pensions cold-calling, including texts and emails, in early 2018. It will then legislate on a ban as soon as Parliamentary time allows.”

Pensions Ombudsman legal forum

The LGPC Secretariat has been informed by the Pensions Ombudsman Service (TPOS) that they have recently established a legal forum, which is geared towards engaging with legal representatives of their stakeholders. The Legal Forum is designed to share information with lawyers and to understand what the industry is thinking to help the Pensions Ombudsman improve his strategic and operational decision-making.

We have been approached to see if the LGPS would wish to be represented on the group and are seeking a volunteer to do so who:

- a) works at an LGPS administering authority in a legal position, and
- b) has experience of dealing with LGPS complaints and with TPOS.

If you would like to nominate someone to sit on the group and represent the LGPS, it would be much appreciated if you could let [Con Hargrave](#) know. Volunteers will be accepted on a first come, first served basis.

The next meeting of the group is due to take place in April 2018.

Communications working group – meeting minutes and work plan published

Minutes of the 23rd October 2017 meeting of the communications working group, along with the group’s work plan for 2017/18, have now been uploaded to www.lgpsregs.org and www.scotlgpsregs.org, at <http://lgpsregs.org/bulletinsetc/cwgminutes.php> and <http://scotlgpsregs.org/bulletinsetc/cwgminutes.php> respectively.

Autumn Budget 2017

On 22nd November 2017, the Chancellor of the Exchequer delivered the [Autumn Budget 2017](#).

The Budget was a relatively quiet one for pensions but did include confirmation (para 4.6 at <https://www.gov.uk/government/publications/autumn-budget-2017-documents/autumn-budget-2017>) that the lifetime allowance will be going up to £1,030,000 from 6 April 2018. This increase is in line with the policy that the Government announced in the March 2015 Budget.

Automatic enrolment – brief guide updated

The automatic enrolment brief guide has been updated in accordance with the Employers' Duties (Miscellaneous Amendments) Regulations 2017, which has the effect of aligning the timing of the deferral date in relation to postponement so that for staging and post-staging employers the period for which automatic enrolment can be deferred is the same, i.e. three months and one day.

Other miscellaneous amendments have also made to the guide. Clean and tracked version of the guide (version 8.0) are available on the guide and sample documents pages of www.lgpsregs.org and www.scotlgpsreg.org.

Freedom & Choice – Transfer forms and withdrawal of guide

The Secretariat has recently been notified of a transfer case that has given us cause to make a number of changes to the transfer forms.

Clean and tracked versions of the updated transfer forms (version 5.0) are available on the guide and sample documents pages of www.lgpsregs.org and www.scotlgpsreg.org.

Primarily, the forms have been amended to reflect that an Administering Authority must make sure that Independent Advice, in accordance with section 48 of the Pension Schemes Act 2015 (section 51 for Northern Ireland), has been obtained where a transfer from the LGPS takes place amounting to more than £30,000, where the transfer is made to:

- a [money purchase scheme](#),
- a [cash balance scheme](#), or
- a scheme, other than a [money purchase scheme](#) or [cash balance scheme](#), whose benefits are calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made by the member or any other person in respect of the member or any other factor).

In addition, we have also taken the opportunity to fine tune a number of other areas in the form as a consequence of the change noted above.

The Freedom and Choice guide is currently under review with a view to changing the look and feel together with reviewing the content. We hope to publish the new version of the guide early in 2018 and this will contain the changes noted above. The current Freedom and Choice guide has therefore been withdrawn and placed in the 'withdrawn guides' areas of www.lgpsregs.org and www.scotlgpsregs.org.

Training

Over the next few months the team will be working on the 2018/19 programme for training as well as working toward the launch of a new training page on www.lgpsregs.org. The programme will be advertised in due course.

We are able to confirm that the LGPS Governance Conference (formerly known as the Trustee Conference) will be held in York in 2018 – further details will follow.

Please contact [Karl White](#) if you have any comments or requests with regard to training in the meantime.

The wider landscape

- The Pensions Policy Institute (PPI) have issued [a briefing note](#) on how prepared people are for retirement
- Universities UK [have announced plans](#) to close the DB section of the Universities Superannuation Scheme (USS), one of the UK's largest private sector DB pension schemes.
- The Local Pensions Partnership and the Royal Borough of Windsor and Maidenhead [have announced](#) that they have signed a memorandum of understanding for Berkshire Pension Fund to join the Partnership.
- DfE have [published the Government's response](#) to their 2016 consultation on the draft Teachers' Pensions Schemes (Miscellaneous Amendments) Regulations 2016.
- The University of Manchester and King's College London have [published research](#) which suggests that around 25% of pensioners in the UK 'unretire' and go back to work.
- In the [first TPR prosecution for failures](#) to automatically enrol staff, Stotts Tours and their managing director, Alan Stott, have plead guilty to wilfully failing to comply with the law on workplace pensions.

Legislation

United Kingdom

Acts	Reference Title
2017/32	Finance (No. 2) Act 2017

SI	Reference Title
2017/1104	The Occupational Pensions (Revaluation) Order 2017
2017/1093	The Franchising Schemes and Enhanced Partnership Schemes (Pension Protection) (England) Regulations 2017
2017/1084	The Teachers' Pensions Schemes (Miscellaneous Amendments) Regulations 2017

Scotland

SSI	Reference Title
2017/387	The Police Pension Scheme (Scotland) Amendment Regulations 2017

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 and one of the team's LGPS pensions advisers will get back to you.

Jeff Houston (Head of Pensions)

Telephone: 0207 187 7346

Email: jeff.houston@local.gov.uk

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)*

Telephone: 01954 232 834

Email: terry.edwards@local.gov.uk

Jayne Wiberg (Pensions Adviser – LGPC Secretariat)

Telephone: 07979 715825

Email: jayne.wiberg@local.gov.uk

Lorraine Bennett (Pensions Adviser – LGPC Secretariat)

Telephone: 0207 187 7374

Email: lorraine.bennett@local.gov.uk

Con Hargrave (Pensions Adviser – LGPC Secretariat)

Telephone: 0207 664 3176

Email: cornelius.hargrave@local.gov.uk

Karl White (Pensions Adviser (Training) – LGPC Secretariat)

Telephone: 07464 652886

Email: karl.white@local.gov.uk

Bob Holloway (Pensions Secretary – LGPS Scheme Advisory Board (E&W))

Telephone: 07919 562847

Email: robert.holloway@local.gov.uk

Liam Robson (Pensions Analyst – LGPS Scheme Advisory Board (E&W))

Telephone: 0207 664 3328

Email: liam.robson@local.gov.uk

Elaine English (LGPS Executive Officer)

Telephone: 0207 187 7344

Email: elaine.english@local.gov.uk

Distribution sheet

Pension managers (internal) of administering authorities

Pension managers (outsourced) and administering authority client managers

Local Government Pensions Committee

Trade unions

CLG

COSLA

SPPA

Regional Directors

Private clients

Copyright

Copyright remains with Local Government Association (LGA). This Bulletin may be reproduced without the prior permission of LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

Disclaimer

The information contained in this Bulletin has been prepared by the LGPC Secretariat, a part of the Local Government Association (LGA). It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Bulletin. Whilst every attempt is made to ensure the accuracy of the Bulletin, it would be helpful if readers could bring to the attention of the Secretariat any perceived errors or omissions. Please write to:

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

or email: [Con Hargrave](mailto:Con.Hargrave@local.gov.uk)

tel: 020 7664 3176