

LGPC Bulletin 165 – December 2017

Please contact [Lorraine Bennett](#) 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 Scotland

Scottish Rate of Income Tax

On 14th December, the Scottish Government published the following proposals for income tax rates and bands in 2018/19 in the [Draft Scottish Budget](#).

Bands	Band name	Rates (%)
Over £11,850*-£13,850	Starter Rate	19
Over £13,850-£24,000	Basic Rate	20
Over £24,000-£44,273	Intermediate Rate	21
Over £44,273-£150,000**	Higher Rate	41
Above £150,000**	Top Rate	46

* Assumes person is in receipt of the Standard UK Personal Allowance

** Personal Allowance is reduced by £1 for every £2 earned over £100,000

Scottish income tax is only payable by Scottish taxpayers. Scottish taxpayers are those who have their main place of residence in Scotland.

Draft LGPS (Scotland) Regulations 2018 – consultation extension

In [bulletin 164](#), we reported that SPPA [commenced a consultation](#) on a new set of main scheme regulations for the LGPS in Scotland, the draft LGPS (Scotland) Regulations 2018. The closing date for the consultation was initially 1st January 2018. However, on 14th December, the closing date was moved to Monday 15th January 2018.

HMRC

Pension Schemes Newsletter 93

On 30th November, HMRC published [pension schemes newsletter 93](#) including articles on:

- the Autumn Budget 2017,
- the reporting of non-taxable death benefits,
- relief at source for Scottish income tax,
- the new Pensions Online Service,
- pension payments to trustees in bankruptcy or third parties,
- the lifetime allowance service, and
- the annual allowance.

In December, HMRC also published a standalone [pension schemes newsletter](#) on relief at source for the Scottish Rate of Income Tax (SRIT). It should be noted that this guidance does not apply to the LGPS because the LGPS operates tax relief on a 'net pay' basis.

DWP

Automatic enrolment review 2017

On 18 December DWP published the report: [Automatic enrolment review 2017: Maintaining the momentum](#) about how workplace pensions will meet the needs of individuals and employers while remaining fair, affordable and sustainable for future generations. Proposals include:

- reducing the lower age limit for auto enrolment from 22 to age 18. This change will simplify workforce assessment for employers: all eligible workers would benefit from auto enrolment from age 18 whoever employs them.
- changing the framework for auto enrolment so that pension contributions would be calculated from the first pound earned, rather than from the lower earnings limit, currently set at £5,876.
- the earnings trigger for automatic enrolment will remain at £10,000 in 2018/19, subject to annual review.
- continuing to monitor and evaluate the impact of increasing contributions and to carry out further analysis to inform a longer-term debate on the right balance between statutory contribution rates and voluntary additional retirement savings.
- to work to implement the government's manifesto commitment by testing targeted interventions – including through the opportunity of Making Tax Digital – to identify the most effective options to increase pension saving amongst self-employed people.
- to support the ability of individuals to engage with, and have a sense of greater personal ownership for, their workplace pension saving so that they can plan for the future.

The government's ambition is to implement the changes to the auto enrolment framework in the mid-2020s, subject to discussions with stakeholders during 2018/19. The government recognises that while the changes being proposed will bring future financial benefits for individuals and the UK's longer term fiscal position, there are also significant cost consequences which will need to be shared between individual savers, employers and government. All parties will need time to plan for this, being mindful of the broader economic climate.

Review of automatic enrolment earnings triggers and qualifying earnings

On 18 December, DWP [published its review](#) of the earnings trigger and qualifying earnings band for automatic enrolment. As mentioned in the article above, the existing threshold of £10,000 will not change for 2018/19. The decision reflects the key balance that needs to be met between affordability for employers and individuals and the policy objective of giving those who are most able to save the opportunity to accrue a meaningful level of retirement savings.

DWP also confirmed that the lower earnings limit will be going up from £5,876 to £6,032 and the upper earnings limit will be going up from £45,000 to £46,350 for the 2018/19 year.

TPR

Quick guides to improving and measuring data

TPR have recently published quick guides for trustees and scheme managers of pension schemes on [improving](#) and [measuring](#) their data. From 2018 it will be mandatory for schemes to include common and scheme specific (conditional) data scores on their annual scheme return.

The Scheme Advisory Board for the LGPS in England and Wales are looking to set up a working group including GAD and TPR with a view to providing guidance on what data should be included in the key scheme-specific (conditional) data for the LGPS (E&W).

Other News and Updates

University of Sunderland vs Drossou

LGPS administering authorities may be aware of a June 2017 Employment Appeal Tribunal (EAT) decision, the [University of Sunderland vs Drossou \(UKEAT/0341/16\)](#), which has potential impacts for employers on how to calculate a week's pay for unfair dismissal compensation under section 221 of the Employment Rights Act 1996 (ERA1996).

The facts of the case were as follows:

- Ms Drossou was an employee of the University of Sunderland who, after being dismissed, brought a claim of unfair dismissal against her former employer. This claim was successful.
- The employment tribunal which heard Mr Drossou's case ordered her to be re-instated by the University which they declined to do.
- As a result, the employment tribunal awarded compensation to Ms Drossou and, in doing so, included the employer's pension contribution in the calculation of a week's pay for the purposes of s221 of the ERA1996.
- The University appealed this decision to the EAT who in June 2017 upheld the employment tribunal's inclusion of employer pension contributions in the calculation.

Under section 221(2) of the Employment Rights Act 1996, the amount of a week's pay is the remuneration "which is payable by the employer under the contract of employment." In their judgment, the EAT concluded that there was no requirement for payments under s221 to be payable 'to the employee'. It also found that the term remuneration was a reward in return for services and concluded that pension contributions were no less a reward for service than basic pay.

In their recent advisory bulletin on the case, the LGA's employment relations team provided some commentary on the implications of this case for local authority employers. This commentary is attached as [appendix 1](#).

Administering authorities may wish to draw this case and the attached appendix to the attention of their employers.

Transfers under the Pension Schemes Act 1993

The LGPS Secretariat have been asked to provide a reminder of our understanding of the requirements of the Pension Schemes Act 1993 in respect of transfers from the LGPS in England & Wales.

Regulation 96 of the LGPS Regulations 2013 provides that a member of the LGPS in England and Wales has a right to a transfer from the scheme in accordance with Chapters 1 and 2 of Part 4ZA of the Pension Schemes Act 1993¹.

Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 provides that a right to a cash equivalent transfer value only exists where the following conditions are all met:

- the member has accrued rights to any category of benefits in the scheme (s93(2)),
- no crystallisation event has occurred in relation to accrued rights to benefits in that category (s93(3)), and
- the member is no longer accruing rights to benefits in that category and, for rights that are not flexible benefits, they stopped accruing those rights at least one year before normal pension age (s93(4)).

Additionally, s96 of the Act says that a member transferring their rights must transfer all their accrued rights to benefits from the scheme in the same category (with the exception of contracted-out rights).

A 'category' of benefits means the type of benefit provided by the scheme. There are three categories of benefit:

- money purchase benefits,
- flexible benefits other than money purchase benefits, and
- benefits that are not flexible benefits.

Because the LGPS in England and Wales is one registered pension scheme, these requirements apply across the scheme and mean a member can only transfer their LGPS main scheme rights (i.e. defined benefits - both final salary and CARE) to another registered pension scheme where:

- a) no crystallisation event has occurred in relation to LGPS main scheme benefits in that or any other LGPS fund,
- b) the member is no longer an active member in that or any other LGPS fund and ceased being active in respect of all memberships more than one year before their normal pension age, and
- c) if the member has more than one LGPS main scheme deferred benefit in the scheme, they must elect to transfer them all (even if those deferred benefits are in different LGPS funds).

¹ Regulation 96 actually refers to 'chapters 4 or 5 of part 4' of the 1993 Act. However, this is just a case of the LGPS Regulations 2013 not keeping up with changes in the overriding legislation that took place on the advent of Freedom and Choice.

It should be noted that technical group discussed issue c) at [their meeting in September 2015](#) and agreed this approach should be adopted across the LGPS.

These requirements also mean that a member can only transfer their AVC rights to another registered pension scheme where:

- a) no crystallisation event has occurred in relation to LGPS AVC benefits in that or any other LGPS fund (other than Pension Credit rights derived from AVCs or a survivor's pension derived from AVCs). Note that a Crystallisation Event for this purpose is payment of a pension or annuity derived from the AVCs. If the member has previously taken an AVC fund wholly as tax free cash, this (perhaps perversely) will not constitute a Crystallisation Event for the purposes of section 93(3) and (7) of the Pension Schemes Act 1993.
- b) the member is no longer actively contributing to an AVC in that or any other LGPS fund, and
- c) if the member has more than one AVC pot in the scheme, they must elect to transfer them all (even if those AVC pots are in different LGPS funds).

The above requirements apply to LGPS Scotland in the same way that they apply to the LGPS in England and Wales (regulation 94 of the LGPS (Scotland) Regulations 2014 is the equivalent to regulation 96 of the LGPS Regulations 2013). However, it should be noted that as the LGPS in England and Wales and the LGPS in Scotland are different registered pension schemes, these requirements do not apply to LGPS benefits accrued in the other LGPS (whichever that may be). For example, if a fund has a deferred benefit in an English and Welsh fund and a Scottish fund, there is no need for them both to transfer out at the same time.

Your LGPS Contacts

As reported in [bulletin 164](#), during November we launched [Your LGPS Contacts](#), a website via which LGPS funds can keep up to date:

- a) the details held for your fund on our websites, and
- b) the contacts for your fund who are on our mailing lists.

Since the site's launch, we have continued to receive a number of enquiries from funds asking us to update their contact details. It is no longer possible for the LGA pensions team to update your details – these must be updated by logging into your fund's section of Your LGPS Contacts and making the appropriate updates.

In addition, have received a number of undeliverable notifications following emails we have sent to those on our database. It is imperative that contact details are kept up to date so that you do not miss out on important information relating to the LGPS.

If you haven't checked the contact details we hold for your fund on Your LGPS Contacts since details were sent around in November, we ask that you do this as a matter of priority.

To ensure that emails sent by the LGA pensions team reach those in your fund who need to receive them, you may wish to include a team email address as one of your contacts for either the administration distribution list or the finance and investment distribution list.

Secondment to DCLG

The LGPC pensions team at LGA have responded positively to a request for a short term secondment to the pensions team at DCLG and Con Hargrave will be joining the DCLG on 2 January 2018.

This additional resource should enable the DCLG team to progress some of the outstanding priority items we have been awaiting (for example Fair Deal regulations). The benefits to the LGPC team at LGA and the LGPS in general will be reviewed at the end of six months to see if a longer term arrangement would be helpful to all.

DCLG will be providing funding to the LGPC during the period which will be used to support the rest of the team for example by developing an enhanced query response system.

Updates to LGPC guides

During December, updated versions of the following LGPC publications were issued:

- annual allowance guide (now published as version 3.3) – updated to reflect that, in accordance with the Finance (No. 2) Act 2017, the Money Purchase Annual Allowance has now reduced to £4,000 with effect from the 2017/18 tax year. In addition, the opportunity was taken to correct a couple of errors in the carry forward examples on pages 126-143 of the guide.
- transfer declaration forms (now published as version 6.0) - updated to make slight revisions in the wording contained in a number of the sample forms (annexes affected - 2, 3, 4, 7, 8, 9, 12, 13, 14, 17, 18, 19, 22, 23 and 24).

Clean and tracked version of the updated documents are available at <http://www.lgpsregs.org/resources/guidesetc.php> and <http://scotlgpsregs.org/resources/guidesetc.php>.

Pensions Dashboard development day

On 11th December, DWP hosted a Pensions Dashboard development day, at which the Minister for Pensions and Financial Inclusion Guy Opperman MP delivered a speech.

Attached as [appendix 2](#) are slides from the event which outline DWP's policy objectives for the Dashboard and a transcript of the Minister's speech from the day is available at <https://www.gov.uk/government/speeches/pensions-dashboard-development-day>.

Tell Us Once newsletter

DWP have published the December 2017 Tell Us Once newsletter, attached to the bulletin as [appendix 3](#).

Retirement of Terry Edwards

The LGA pensions team would like to wish Terry Edwards, our retiring former Head of Pensions a long and happy retirement.

Terry has worked in the LGPS since leaving school at the age of 16, first at Norfolk and then, from 1983, at the Cambridgeshire Pension Fund. Terry joined the LGA in 2000 and, as Head of Pensions until stepping down to a senior advisor position in 2011, Terry built the foundations of the LGPC Secretariat service as we know it today.

Always willing to provide support and assistance to colleagues, over the years Terry has been a passionate voice on behalf of LGPS administering authorities and his technical expertise in particular will be much missed across the scheme.

On behalf of the LGPS, we would like to extend Terry our warm thanks and wish him and his wife Sue all the best for the future.

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 Government have [published their interim response](#) to the Law Commission's June 2017 report on pension funds and social investment.
- Working with Client Earth, PLSA have [published a guide](#) which suggests that climate change poses service risks to pension funds' investments.
- PLSA have [published a guide](#) outlining the top five actions that pension schemes need to take before MIFID II is implemented.
- A [survey by NOW: Pensions](#) suggests that 69% of 16-21 year olds are in favour of being automatically enrolled into a workplace pension before the age of 22.
- A [report by Bright Blue and the Fabian Society](#) has been published collecting views from UK pensions experts on ideas for the next stage of workplace pension reform.
- TPR have [announced that they intend to prosecute](#) a healthcare company for trying to avoid their automatic enrolment duties.

Legislation

United Kingdom

SI	Reference Title
2017/1272	The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) (Amendment No 2) Regulations 2017
2017/1205	The Employment Rights Act 1996 and Pension Schemes Act 1993 (Amendment) Regulations 2017
2017/1152	The State Pension Debts and Credits (Revaluation) (No 2) Order 2017
2017/1151	The State Pension Revaluation for Transitional Pensions Order 2017

Scotland

SSI	Reference Title
2017/435	The Firefighters' Pension Scheme (Amendment and Transitional Provision) (Scotland) Regulations 2017
2017/434	The National Health Service Superannuation Scheme (Scotland) (Miscellaneous Amendments) (No 2) Regulations 2017
2017/433	The National Health Service Pension Scheme (Scotland) (Miscellaneous Amendments) (No 2) 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.

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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

COSLA

SPPA

Regional Directors

Private clients

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