

Local Government Pensions Committee  
Secretary, Lorraine Bennett

## **LGPC Bulletin 179 – December 2018**

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.

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## LGPS England & Wales

### The LGPS (Miscellaneous Amendment) Regulations 2018 [SI2018/1366]

The above [regulations](#) were laid before parliament on 18 December 2018 and come into force on 10 January 2019, with the exception of:

- regulation 4 - which has effect from 17 April 2018
- regulation 5 – which has effect from:
  - 5 December 2005 in respect of a surviving civil partner of a member; and
  - 13 March 2014 in respect of a surviving spouse of a same sex marriage with a member.

The regulations amend the LGPS 2013 Regulations and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

MHCLG also published their [response](#) to the consultation on 18 December 2018.

We were expecting regulation 4 (a technical amendment to deliver the policy intent for deferred members of the 1995 scheme to be able to access their benefits without their employer's consent from age 55) to take effect from 14 May 2018, as this is the date the original policy change took effect by virtue of the LGPS (Amendment) Regulations 2018 [2018/493]. MHCLG have confirmed that whilst they appreciate it would have been more appropriate for regulation 4 to take effect from 14 May 2018 they are of the opinion that the alternative date will not cause any significant issues.

We will review the regulations in the coming weeks and publish an impact analysis and an updated survivor benefit table in January. The timeline regulations will also be updated in January.

The national Communications Working Group will discuss communicating the changes to scheme members at their next meeting on 15 January 2019. We will update all administering authorities accordingly after the meeting.

## LGPS Scotland

### Pension credit members – death grant

Both the LGPS (Scotland) 2014 and 2018 Regulations provide that where an active member dies a death grant is payable of three times the assumed pensionable pay, or if higher, the aggregate of the amount of any death grants payable under regulation 41 (deferred and pension credit members) and regulation 44 (pensioner members). This means that only one death grant is payable where an active member dies in service and also holds a separate entitlement in respect of a pension credit awarded under either the 2014 or 2018 regulations.

However, where a pension credit was awarded under the 1998 or 2008 regulations the pension credit death grant is payable in addition to any death in service grant. SPPA have confirmed that the position under the 2014 and 2018 does not deliver policy intent and that *“the pension sharing on divorce credits, and the pension rights derived from them, must be treated separately from benefits derived directly from membership of the LGPS. The two separate streams of pension rights have been*

*accrued and awarded under distinct circumstances: membership of an occupational pension scheme and by a court order”.*

SPPA have confirmed that they intend to amend the regulations to permit the payment of two death grants where the deceased was both an active member and a pension credit member and the pension credit was awarded under the 2014 or 2018 regulations. However, if in the meantime, any Scottish funds encounter a case, the fund should seek direction from SPPA on a case-by-case basis.

### **Aggregation of concurrent employments**

SPPA have confirmed that they intend to amend the regulations to deliver policy intent where a member leaves a concurrent employment and aggregation of final salary membership takes place.

Currently where a member holding concurrent employments leaves one of those employments, there is an issue where the:

- initial employment began before 1 April 2015 and ceased after that date, and
- continuing employment began on or after 1 April 2015 and whilst the person was still in the initial employment.

Regulation 10(8) of the LGPS (Transitional)(Scotland) Regulations 2014 only addresses those cases where both employments commenced before 1 April 2015. In these cases, where a member leaves active membership in a concurrent employment and the benefits are aggregated with the continuing employment, administrators are required to apply an adjustment to the pre-1 April 2015 final salary membership.

However, where the continuing employment is in relation to an employment that commenced on or after 1 April 2015, no such adjustment is required. This means that pre-1 April 2015 final salary membership is aggregated on a day-for-day basis.

SPPA have confirmed that the policy intent is that any pre-1 April 2015 final salary membership should be adjusted when adding it to the membership in the continuing employment. They have confirmed they intend to amend the regulations when the LGPS Transitional Provisions and Savings)(Scotland)Regulations 2014 are updated; this will be in the New Year.

### **Consultation on the draft LGPS (Miscellaneous Amendments) (Scotland) Regulations 2019**

SPPA have published the above [consultation](#) seeking comments on the draft miscellaneous amendments to the LGPS (Scotland) Regulations 2018. These regulations correct a number of referencing errors and ensure that the provisions in the LGPS (Transitional Provisions and Savings)(Scotland) Regulations 2014 continue to have effect in the 2018 scheme.

The consultation will run until Monday 11 March 2019.

## HMRC

### Scheme pays and payments on account

On 4 December, Lorraine Bennett forwarded an email from HMRC concerning the payments made by administrators in respect of the annual allowance charge. HMRC confirmed:

*“Where an AFT return has been submitted that includes an annual allowance charge, the scheme administrator will be provided with a charge reference which they should use when making payment. This will ensure the payment is automatically allocated against the correct account and charge. Where an administrator is making a payment on account in advance of receiving the charge reference, the reference they should use is the scheme’s PSTR (pension scheme tax reference). They should **NOT** use the name and/or national insurance number (NINO) or unique taxpayer reference (UTR) of the individual whose charge the scheme is paying. If any sub-scheme administrator has paid an annual allowance charge quoting the individual’s NINO and/or UTR as a reference, can they please send me ([David Roper](mailto:David.Roper)) an e-mail with details at their earliest opportunity, i.e. the name/NINO of the individual, the amount and the AFT return period the charge relates to”.*

### Questionnaire on Accounting for Tax (AFT) return and event report

On 13 December, Jayne Wiberg forwarded an email from HMRC with a subject line of “update on reporting non-taxable death benefits, Scottish Budget 2018 and Questionnaire on AFT and event report”.

In the email HMRC ask that funds complete a questionnaire on how the AFT and event report might look in the new Manage and Register Pension Scheme service. See the recent [Manage and Register Pension Schemes service newsletter – December 2018](#) for more information.

The questionnaire is attached to this bulletin as [appendix 1](#).

Additionally, if you are interested in taking part in user research on these subjects, you can email HMRC at [pensions.businessdelivery@hmrc.gsi.gov.uk](mailto:pensions.businessdelivery@hmrc.gsi.gov.uk) and put ‘Manage and Register Pension Schemes service – user research’ in the subject line of your email.

The information regarding reporting non-taxable death benefits and tax relief at source in the email of 13 December does not apply to the LGPS so is to be ignored.

### Countdown bulletin 40

On 19 December, HMRC published countdown [bulletin 40](#) that includes articles on:

- Scheme Financial Reconciliation
- Contributions Equivalent Premium guidance
- Shared Workspace
- Clerical Scheme Reconciliation Service (SRS)
- SRS Stalemate Queries

Of particular interest is the article on Scheme Financial Reconciliation. If an administering authority is in deficit when HMRC run their final refund and billing exercises run in April 2019, they will issue a bill to the Pension Scheme Administrator (PSA) address according to HMRC records. If they do not receive payment, they will enforce liability in scheme, for any Contributions Equivalent Premiums (CEP) that are still unpaid. We encourage all administering authorities to request their financial position from HMRC and balance their liabilities to ensure that their records are correct.

## HMT

### Indexation of public service pensions

On 4 December, HMT issued an updated [direction](#) (dated 3 December 2018) under Section 59A of the Social Security Pensions Act 1975 which replaced the direction issued on 6 April 2016 and is backdated to that same date. The direction continues existing indexation provisions and, as a result of HMT's 2017 consultation on [GMP indexation and equalisation](#), extends the arrangements to some additional groups of pensioners and provides for the payment of increases to survivors whose SPa is after 5 April 2021.

The Secretariat is in the process of reviewing the impact of the updated direction and will issue guidance for administering authorities in the New Year.

## DWP

### Review of the earnings trigger and qualifying earnings band for 2019/20

On 4 December, the government [published](#) its annual review of the earnings trigger and qualifying earnings band for auto enrolment into a workplace pension. The review concludes that the existing threshold of £10,000 remains the correct level at this point in the establishment of auto enrolment and will not change for 2019/20. This represents a real terms decrease in the value of the earnings trigger when assumed wage growth is taken into account and will bring an additional 40,000 individuals into the target population.

### Automatic enrolment evaluation report 2018

On 18 December, the government published the [automatic enrolment evaluation report 2018](#) which evaluates the implementation of auto enrolment into workplace pensions by bringing together the latest evidence and new analysis to show what has happened to workplace pension membership and contributions since auto enrolment began.

### Pensions Dashboards

The results of a feasibility study to explore the options for the delivery of online pensions dashboards were released in the form of a government [consultation](#) on 3 December 2018. The consultation is seeking views on how the government can best facilitate an industry-led delivery of pensions dashboards. The consultation closes at 11pm on 28 January 2019.

The consultation proposals include:

- a non-commercial dashboard be hosted by the [Single Financial Guidance Body](#) (SFGB) together with multiple commercial dashboards hosted by

different organisations, in order to improve consumer choice and enable them to use the dashboard that most suits their needs.

- the establishment of a delivery group convened and stewarded by the SFGB, which would work towards the successful implementation of the technology that will allow pensions dashboards to operate.
- a single 'Pension Finder Service' (PFS) will act as a search engine to find pension schemes linked to an individual.
- state pension data will ultimately be part of the service.
- with the consent of the individual, pension schemes will be required in legislation to provide an individual's data via pensions dashboards.
- public service pension schemes be given longer lead-in times to prepare their data prior to on boarding. It is expected that the pensions industry will start to supply data to a dashboard, on a voluntary basis, from 2019. The majority of schemes will be on-boarded within 3 to 4 years from the first dashboards being available to the public.

## Other News and Updates

### Technical group minutes published

The [minutes](#) of the meeting held on 11 December are now available on [www.lgpsregs.org](http://www.lgpsregs.org) and [www.scotlgpsregs.org](http://www.scotlgpsregs.org). Items of discussion include:

- transfers out and requests for information from claims management companies
- an update on extending the uses of the NI database
- the requirement under the LGPS 2013 Regulations to pay a refund within 5 years of the date of leaving
- aggregation where a member leaves a concurrent employment.
- establishment of sub-groups to review future legislation

### New TPR Chief Executive

On 18 December, the Pensions Regulator (TPR) [announced](#) they have appointed Charles Counsell as their new Chief Executive. Charles Counsell is currently Chief Executive of the Money Advice Service and will join TPR at the start of April following the departure of Lesley Titcomb at the conclusion of her term as Chief Executive at the end of February.

### Antony Arter re-appointed as the Pensions Ombudsman

On 17 December, DWP [announced](#) that Anthony Arter has been re-appointed as the Pensions Ombudsman for a further two years until 31 July 2021.

### Consultation on changes to TPO

On 19 December, the government published a [consultation](#) seeking views on proposals for a new function at TPO for the earlier resolution of disputes prior to a determination; allowing employers to make complaints or refer disputes to TPO on behalf of themselves and associated signposting provisions. The consultation closes at 11pm on 18 January 2019.

### The Pensions Ombudsman Service (TPOS) newsletter

TPOS have published the fifth of their stakeholder newsletters, which is attached to this bulletin as [appendix 2](#).



### **Civil Service Pension Schemes - GMP reconciliation**

The Cabinet Office has published the Civil Superannuation [annual accounts for 2017-18](#). Within those accounts (paragraphs 1.65 & 1.66) there is a summary of the contracting-out reconciliation exercise. Of particular interest to administering authorities may be the information and approach regarding the rectification and non-recovery of overpaid pensions in paragraph 1.66:

*A number of over and under-payments have been identified in the GMP reconciliation exercise and will be corrected as part of a GMP rectification exercise, which will start in mid-2018 and conclude in mid-2019. The total value of under-payments is estimated to be £200,000 and the total value of over-payments is estimated to be £22m. Under-payments will be corrected and paid to members and over-payments will be written-off, consistent with the approach across the rest of the public sector. In all cases, pensions going forward will be adjusted to the correct level.*

### **Wider Landscape**

#### **DWP consultations**

On 14 December, GAD published a [technical bulletin](#) providing a summary of three pensions consultations recently published by DWP, one of the consultations being the pensions dashboards. The other consultations are delivering collective defined contribution (CDC) pension schemes and consolidation of defined benefit schemes.

#### **LGPS NI - consultation on rectification of the cost cap floor breach**

The Department for Communities in Northern Ireland have opened a [consultation](#) (closing date 15 February 2019) on the rectification of the cost cap floor breach in the LGPS Northern Ireland.

This consultation seeks comments on the recommendation agreed by the Local Government Pension Scheme Advisory Board to rectify the cost cap floor breach. The recommendation is for:

- the member accrual rate to move from 1/49 to 1/43.5, and
- the survivor accrual rate to move from 1/160 to 1/142.

#### **NHS pension scheme consultation published**

The Department of Health and Social Care has published a [consultation](#) setting out proposals to change NHS pension scheme regulations together with draft regulations. The proposals include a new contribution rate of 20.6% for employers from 1 April 2019 and providing civil partners and same sex spouses with the same survivor pension rights as widows.

In addition, the consultation notes that the cost cap floor has been breached and that the rectification process is underway, with discussions ongoing between the Department of Health and the NHS Scheme Advisory Board. It confirms that if no agreement is reached, then a default measure will be applied which will improve the accrual rate to 1/48.1th from 1 April 2019.

The consultation closes at 11:59pm on 28 January 2019.

### **No-deal Brexit pensions guidance**

On 18 December, the government published two sets of guidance explaining the rights of [EU citizens in the UK](#), and [UK nationals in the EU](#), to benefits and pensions in the event of a no-deal Brexit.

### **Review into the handling of women's state pension changes granted**

On 6 November, the SPA for women rose to 65, marking the equalisation of the male and female pension ages.

On 30 November, a High Court judge granted a [judicial review](#) into how the government handled the raising of the pension age from 60. The campaign group BackTo60 brought the case, they are calling for all women who were born in the 1950s to be given the same amount of state pension as they would have received had it started at the age of 60.

### **Pension cold calling ban receives parliamentary approval**

Regulations to implement a ban on pensions cold-calling were approved without a vote by Parliament yesterday. The ban was initially due to be introduced by June 2018 after amendments were made to the Financial Guidance and Claims Bill but its implementation was delayed while the Treasury consulted on "technicalities". It has now become law under the Electronic Communications (Amendment) (No 2) Regulations 2018, which are expected to be effective at the start of next year.

## **Legislation**

### **United Kingdom**

SI	Reference Title
2018/1396	The Privacy and Electronic Communications (Amendment) (No 2) Regulations 2018
2018/1366	The Local Government Pension Scheme (Miscellaneous Amendment) Regulations 2018
2018/1330	The Financial Guidance and Claims Act 2018 (Commencement No 5) Regulations 2018

## **Useful Links**

[LGA Pensions page](#)

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

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

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

[LGPS Advisory Board website](#) (Scotland)

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



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

[Public Sector Transfer Club](#)

[Recognised Overseas Pension Schemes](#) that have told HMRC that they meet the conditions to be a ROPS and have asked to be included on the list.

## **LGPS 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 pension advisers will get back to you.*

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## **Distribution sheet**

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