

Local Government Pensions Committee  
Secretary, Lorraine Bennett

## LGPC Bulletin 189 – September 2019

### Foreword

This bulletin contains a number of important updates for LGPS administering authorities, scheme employers and software providers, whilst also providing a general update for all stakeholders.

Of particular importance are the articles on:

- [Updated actuarial factor spreadsheet – Club transfer factor error](#)
- [TPR's LGPS engagement report](#)

If you have any comments on the contents of this bulletin or wish to suggest items that might be included in future bulletins, please contact [query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk).

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## LGPS England & Wales

### Updated actuarial factor spreadsheet - Club transfer factor error

On 20 September, MHCLG notified us that the actuarial factor spreadsheet contained errors. They provided a revised version of the spreadsheet, for immediate use, which is available on the [Actuarial guidance](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

In the previous version of the factor spreadsheet:

- The Club transfer factors for members aged 65 and over were incorrect as they were based on the Cabinet Office factors issued in January 2019, rather than the updated factors issued in April 2019.
- The spreadsheet did not include factors for members having a Club transfer out where they were already over their critical retirement age.

The new version of the spreadsheet includes the following updates, as confirmed by GAD:

- “1. Corrections to the tables in worksheets x-103 to x-110 to align with the latest [club memorandum](#).*
- 2. Table x-102 with factors for valuing immediate benefit payment previously omitted*

*All of these factors are taken from the Public Sector Transfer Club Memorandum valid from 1 April 2019 published by the Cabinet Office. They are included in LGPS factors and guidance to make clear how scheme-specific adjustments should be applied for transfers where a LGPS member has a CRA in respect of part of their benefits.*

*The corrections to tables x-103 to x-110 result in a small decrease in the gross pension factors for ages equal to Normal Pension Age and above compared to the values included in previous consolidated factor workbook dated 9 August 2019.*

*Table 102 immediate benefit payment factors should be used for club transfers where a member is over the age by reference to which an element of the transfer value is calculated (eg a member who has reach their CRA), as set out in paragraph 2.30 of the [“Local Government Pension Scheme \(England and Wales\) Individual incoming and outgoing transfers”](#) guidance dated 8 April 2016. Note CRA adjustment factors per Table 219 is not needed where immediate factors are being used.”*

MHCLG and GAD both extend their apologies for the error.

### Action for administering authorities

You will need to review and recalculate certain Club transfers that have been completed since 1 April 2019. The cases that will need to be reviewed are summarised in the table below:

Age of member	Relevant date
<b>Transfers in</b> Members over 65 on the relevant date	The initial quote was issued on or after 1 April 2019 OR
<b>Transfers out</b> If the member was over their NPA or their CRA for all or part of their benefits transferred on the relevant date.	The initial quote was issued before 1 April 2019, but the member elected to proceed with the transfer outside the three month guarantee period and after 1 April 2019

### Court proceedings and the LGPS

If your administering authority is notified that someone is intending to bring court proceedings relating to the LGPS (whether relating to LGPS guidance or regulations specifically, or broader legislation) please ensure that you inform MHCLG as early as possible. You can do this by emailing [lgpensions@communities.gov.uk](mailto:lgpensions@communities.gov.uk).

### LGPS mortality data: approach from CMI

GAD have been approached by the actuarial profession's Continuous Mortality Investigation (CMI) to request LGPS (E&W) mortality data. A letter from [CMI to GAD setting out their proposal](#) (and [information for pension schemes](#)) is on the Board website.

GAD, MHCLG and the SAB Secretariat are supportive of this proposal in principle, but would welcome the views of stakeholders. Also on the website is a [letter setting out a summary of the CMI proposal](#), and the questions on which GAD are seeking views to be considered by the Cost Management, Benefit Design and Administration Committee. If you have any comments or views on this, please pass them to the SAB secretariat or a member of the CMBDA Committee.

### Pension fund annual reports 2019

Regulation 57 of the LGPS Regulations 2013 requires administering authorities to publish their pension fund annual report, in relation to the Scheme year ending on the 31 March, on or before the following 1 December.

However, since the Local Government [Accounts and Audit Regulations 2015](#) brought forward the deadline, from 2018, to 31st July; from 2018 onwards, we understand that many local authorities have brought forward publication of their Pension Fund Annual Report and Accounts accordingly. Please email a copy of your annual report (or hyperlink) to [liam.robson@local.gov.uk](mailto:liam.robson@local.gov.uk) when it is available (by Friday 29 November at the latest). These reports will be uploaded to the Scheme Advisory Board's website [Fund Annual Report 2019](#) page.

## LGPS Scotland

### Revised late retirement guidance

On 20 September, Roddy McLeod notified Scottish administering authorities of the revised actuarial guidance for late retirements.

The new guidance is effective from 1 October 2019 and replaces the previous guidance dated 23 January 2017.

SPPA confirmed that where a member takes payment of their benefits before 1 October 2019, you should use the previous guidance to determine the relevant increases.

We have uploaded the new guidance to the [Actuarial Guidance](#) page of [www.scotlgpsregs.org](http://www.scotlgpsregs.org).

### Annual allowance data request

On 25 September, Roddy McLeod sent the request below to Scottish administering authorities:

*As you may be aware, HM Treasury is currently looking into service delivery issues caused by pensions and pension tax across public services. This work is linked to the ongoing review of the tapered Annual Allowance which the Chancellor of the Exchequer announced on 7 August. To support HMT's thinking on the scale of issues and potential policy responses (including advising Ministers on the impact of potential changes on the public services), it would be helpful for them to have the latest available information on your respective workforces and scheme members. The information requested is as follows:*

- *Number of members who paid a Lifetime Allowance Charge split by tax year that charge related to (starting 2015/16), salary (£10k salary band)*
- *Number of members who made an Annual Allowance Charge scheme pays request split by tax year that request related to (starting 2015-16), salary (£10k salary band), and protection status*
- *If the Annual Allowance Charge Scheme Pays data is not available then, as an alternative, the number of members whose HMRC Pension Input Amount exceeded £40,000 split by tax year (starting 2016/17), salary (£10k salary band) and protection status*
- *Numbers and characteristics of the workforce who have opted out of the respective pension scheme*

*Please reply to the following mailbox [SPPAPolicy@gov.scot](mailto:SPPAPolicy@gov.scot) with the following format in the Subject field: e.g. Orkney AA Data Request.*

*With apologies for the short timescale, it would be useful to have this information by **4 October** if possible.*

## HMRC

### Event Reporting

#### Annual allowance

As in previous years, HMRC is prepared to accept scheme data regarding pension savings statements for 2018/19 on an excel spreadsheet rather than through the scheme's Event Report.

All other scheme events for 2018/19, with the exception of the lifetime allowance protection regimes (see below), must be submitted via Pensions Online. You must submit the data by 31 January 2020. For information on how to submit the data, please refer to the email forwarded by Lorraine Bennett on 30 August 2019.

#### Lifetime Allowance

The Event Report still hasn't been amended to include lifetime allowance protections that your members applied for online. If you need to submit these details to HMRC, you can submit them on a password-protected spreadsheet and send the password in a separate email. You should put 'Lifetime allowance – Event Reporting' in the subject line of your email and send this to [pensions.businessdelivery@hmrc.gov.uk](mailto:pensions.businessdelivery@hmrc.gov.uk) and copy in [david.roper@hmrc.gov.uk](mailto:david.roper@hmrc.gov.uk). You must also provide this data by 31 January 2020.

#### Countdown bulletin 48

HMRC published [Countdown bulletin 48](#) on 30 August 2019. The bulletin includes information on HMRC's approach for producing final data cuts.

#### Pensions Schemes Newsletter 113

On 29 August, HMRC published [Pension Schemes newsletter 113](#). The newsletter clarifies that by 6 October 2019 you must issue annual allowance pension savings statements for tax year 2018 to 2019:

- to your scheme members who made pension savings of more than the annual allowance to your pension scheme
- where you have reason to believe that they have flexibly accessed their pension rights, their pension savings under money purchase (and where appropriate hybrid) arrangements under your scheme are more than £4,000.

#### GMP reconciliation – stalemate cases

We are aware that administering authorities (along with other public service pension schemes) still have outstanding 'stalemate' cases and that a conclusion is not forthcoming.

As contracted-out reconciliation has come to an end, with schemes expecting their final data cut in November or December 2019, we have taken the decision to provide a recommendation for administering authorities to follow, if they so wish.

#### Background

In [bulletin 168](#) (March 2018) we confirmed that, in our view, a guaranteed minimum pension (GMP) is not a scheme benefit, it is merely the guaranteed minimum that a scheme must pay.

In the LGPS, benefits are calculated with reference to membership and pay. Those benefits are then assessed against the value of the GMP, if applicable. In order to pay a scheme benefit, the administering authority must have the necessary accurate data (as set out in the Scheme regulations). They must also comply with the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [SI 2014/3138].

### **Not in scheme stalemate cases**

Where there is no trace of the person in the LGPS pension fund, we recommend that the administering authority deletes all reference to this individual. Data protection legislation only allows an administering authority to hold data if they have a lawful basis for doing so. Where there is no record of an individual ever being a member of the LGPS, in our view, there is no lawful basis for holding data.

### **All other stalemate cases**

For all other stalemate cases (whether they relate to the period of contracted out membership, GMP values etc), you should take no action until the later of the:

- member's GMP pensionable age
- date the member's Scheme benefits are paid.

### **HMRC business as usual (BAU) queries**

You should query these cases with HMRC's BAU service when you pay a member's Scheme benefits (or when you receive a request for payment for a 'not in scheme' case).

On 17 September 2019, HMRC confirmed that the BAU model is currently in the process of being signed off.

## **DWP**

### **Tell Us Once**

DWP have brought the messaging service used to provide public sector pension schemes with notifications from the Tell Us Once (TUO) service in-house. As a result, the fees that were previously payable for on-boarding and change requests (IP addresses) are no longer applicable. The on-boarding process is also much simpler (access is via the internet which avoids the need for local certificates etc), so now is a good time to join if your administering authority isn't already on board.

For those who are aren't aware, TUO is an award-winning service, enabling citizens to notify partner organisations in one go of a verified registered death. The notification is instant and avoids the need for citizens to contact central, local government departments (including LGPS administering authorities) and public sector partners individually. It also removes the need (and the associated cost) for them to provide those organisations with a death certificate.

Contact [Cath Leaworthy](#) for more information about joining TUO.

We have been made aware that some LGPS administering authorities are asking the next of kin or informant for a death certificate at their expense, even though they have been notified of the death via the TUO system. There is no need to do this, it goes against the principles of TUO and is not compliant with the Data Sharing Agreement (DSA) that each administering authority using the system signed. DWP will be obliged to remove an administering authority's access to the service if they choose to request arbitrarily a death certificate from the next of kin or informant. If you would like to discuss this further please [Lorraine Bennett](#) or [Cath Leaworthy](#).

## TPO

### PO 21243 – Prudential Personal Pension Scheme

Mr R complained that Prudential transferred his scheme account to the Beausale Limited Pension Scheme in 2012 without carrying out sufficient due diligence.

The [complaint](#) was not upheld on the basis that the Pensions Regulator did not issue guidance to providers on pension liberation and the danger of pension scams until February 2013. It was at this point that industry practice changed with regard to the level due diligence expected. This led to the issue of 'Scorpion' leaflets, warning members about the risks to their pensions.

## TPR

### LGPS engagement report published

On 19 September, the Pensions Regulator (TPR) published a [report](#) on the findings from its engagement with ten local government funds. The engagement took place between October 2018 and July 2019.

The report summarises the key findings against the Regulator's Code of Practice 14 both in terms of exceeding and falling short of required standards. The Scheme Advisory Board (England and Wales) will discuss the report in detail at their meeting on 6 November 2019.

### TPR launch re-enrolment tool for employers

The Pensions Regulator has launched a [new tool](#) to assist employers comply with their automatic re-enrolment duties. The tool is intended to simplify the re-enrolment process for employers, ensuring that they continue to meet their obligations.

## Other news and updates

### NI Database update

The updates to the NI Database are now complete.

A total of 92 funds have signed the new Data Sharing Agreement (DSA) and are now able to use the Database for the extended uses set out in the agreement.

When searching the Database, funds will need to take into account that data for all funds is not present. You can check which funds' data is present by looking at the 'records last updated' column on the ['Participating funds'](#) page of the website.

At the date of publication, data for the following funds is not included:

England and Wales	Signed DSA	Data present
Brent Pension Fund	No	No
Enfield Pension Fund	No	No
Southwark Pension Fund	No	No
Islington Pension Fund	Yes	No
Tower Hamlets Pension Fund	Yes	No
Scotland	Signed DSA	Data present
Falkirk Pension Fund	No	No
Orkney Pension Fund	Yes	No
Scottish Borders Pension Fund	No	No
Tayside Pension Fund	No	No

We have updated [Annex 3](#) (lawful basis considerations) to the Data Sharing Agreement (DSA) to correct an error in relation to the application of the Local Government Act 2000. No action is necessary.

### Equitable Life transfer – counsel’s opinion

Further to the article in [bulletin 188](#), we obtained Counsel’s opinion on considerations for LGPS administering authorities (AA) when voting on the Proposal. You can view the opinion on the [legal opinions](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

The opinion confirms that:

- an AA is entitled to vote
- the AA has a duty to secure that the value of additional benefits from AVCs is ‘reasonable’ having regard to the amount of the voluntary contributions and the value of other scheme benefits
- it is for AAs to determine how they exercise their votes; they cannot and must not abdicate their responsibility in this regard
- AAs must not allow themselves to be dictated to by Scheme members
- AAs will not generally be liable if they act reasonably.

Regarding whether there are any processes that AAs should follow before they determine how to vote and in order to assist with that determination, Counsel’s view is that communication with Scheme members would be prudent (for the reasons set out in the opinion). See the [full opinion](#) for more information.

### Consultation on changes in RPI methodology

Chancellor of the Exchequer Sajid Javid has [announced](#) that the Government intends to consult on whether to align the RPI with the housing cost-based version of the CPI, known as CPIH. The consultation on the proposed changes will open in January 2020, and will ask whether the change should be made before 2030.

A change in RPI would affect the revaluation (while the member is active, deferred or the pension is in payment) of extra pension bought under an ARC contract that started between 1 April 2008 and 31 March 2012. It would also affect the calculation of career average pay for Welsh councillors.

### **Cost transparency code - compliance and reporting system**

Following a procurement process, the SAB to England and Wales [announced](#) that it has appointed Byhiras to develop and host the cost transparency compliance and reporting system. It is expected to go live in the first quarter of 2020.

### **National LGPS Technical Group minutes published**

The [minutes](#) of the meeting held on 20 September 2019 are now available on [www.lgpsregs.org](http://www.lgpsregs.org) and [www.scotlgpsregs.org](http://www.scotlgpsregs.org). Items of importance include:

- agreements regarding subject access requests from claims management companies
- a recommendation regarding the interpretation of the rules governing aggregation and concurrency
- LGPS knowledge system – next steps.

## **Training**

### **Annual governance conference**

Our annual Governance Conference is taking place in York on 23 to 24 January 2020 and is [open for booking](#). The theme for the conference is 'Public service pension reform – life after Hutton'.

For more information, including the conference programme and confirmed speakers see [circular 314](#) and the [conference flyer](#).

## **Wider landscape**

### **Upating of UK State Pension for recipients living in the EU after Brexit**

The Government has committed to uprating the UK State Pension paid to those living in the EU each year until March 2023, in the event that the UK leaves the EU without a deal.

During this three-year period the Government plans to negotiate a new arrangement with the EU to ensure that uprating continues.

DWP [confirmed](#) on 27 September that they will be writing to more than 363,000 pensioners living in the EU to reassure them their UK State Pension will continue to be paid when we leave the EU.

### **Independent Schools and the Teachers' Pensions Scheme consultation**

On 9 September, the Department for Education (DfE) opened a [consultation](#) to gather views on a proposal to change the Teachers' Pension Scheme (England and Wales) (TPS) rules to allow independent schools to opt out more flexibly.

Under the current scheme rules, an independent school electing to opt out of the Scheme results in all members being deferred. The proposal would allow independent schools to continue to offer TPS membership to existing staff, but not to new teachers.

Independent schools will not receive any funding to meet the cost of increased TPS employer contributions from 1 September 2019. This significant increase in costs means that more independent schools are considering opting out.

Contributions paid to the TPS by independent schools account for approximately 10% of the total scheme contributions. As an unfunded scheme, any exiting school does not have to pay an exit payment. There is a risk that increased costs will be met by local authorities paying a higher TPS employer contribution rate in the future.

The LGA will be responding to the consultation before the deadline of 3 November 2019.

### **NHS Pension Scheme consultation: increased flexibility**

The Department for Health and Social Care is consulting on a [new set of proposals](#) to offer senior clinicians more control over their pensions growth, so they can continue to provide the services that patients need.

The new plans go significantly beyond the 50:50 flexibility previously proposed. The new proposals include:

- a 'flexible accrual' option where members can choose an accrual level in 10% increments
- the option to 'fine tune' pension growth towards the end of the scheme year, when total earnings are clearer

The [previous consultation](#) has now been withdrawn.

NHS employers have produced [guidance](#) that outlines optional local measures that employers can take to support staff who are likely to be affected by pension tax issues ahead of the increased flexibilities being introduced.

## 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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Pension managers (outsourced) and administering authority client managers  
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