

Local Government Pensions Committee  
Secretary, Lorraine Bennett

## LGPC Bulletin 190 – October 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:

- [Pension tax data request from MHCLG and HMT](#) – responses by 1 November 2019
- [GAD request for valuation data](#) – and what to do if you have not received a request for data by 31 October 2019

which require action by certain stakeholders.

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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### **McCloud and pension tax data request**

Lorraine Bennett contacted administering authorities on 2 October 2019 with a request for data from MHCLG and HM Treasury. They have requested the information to help with policy planning in relation to McCloud and wider pension tax issues affecting the public sector.

Please note that MHCLG have extended the deadline for submitting this information. Administering authorities must send this data to [lgpensions@communities.gov.uk](mailto:lgpensions@communities.gov.uk) **by 1 November 2019**.

### **MHCLG consultation on pension fund merger**

We reported in [Bulletin 187](#) that MHCLG had launched a consultation seeking views on merging the West Midlands Integrated Transport Authority Pension Fund into the West Midlands Pension Fund. The consultation closed on 7 September 2019. The Government has now published their response to the consultation. The Government has decided to proceed with the merger, subject to Parliamentary agreement. You can read the consultation documents and the Government's response on the [Scheme consultations](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

### **SF3 data published**

On 16 October 2019, MHCLG published [Local government pension scheme funds for England and Wales: 2018 to 2019](#) (SF3) statistics. Highlights include:

- Total LGPS expenditure in 2018-19 was £12.7 billion. Removing the effect of mergers and large transfers in 2017-18 there was a like-for-like increase of £0.7 billion or 5.7% on 2017-18.
- Total LGPS income in 2018-19 was £15.1 billion. Removing the effect of mergers and large transfers in 2017-18 and 2018-19, there was a like-for-like decrease of £2.3 billion or 13.2% on 2017-18. This is mainly due to an increase in employers' contributions in 2017-18.
- Employers' contributions to LGPS in 2018-19 amounted to £7.1 billion, down 24.7% on 2017-18, and employees' contributions to the scheme were £2.2 billion. The decrease in employers' contributions is largely due to some large upfront pension contribution payments made in 2017-18 following the triennial valuation.
- The market value of the LGPS funds at the end of March 2019 was £287.2 billion, an increase of £16.3 billion or 6.0%.
- The LGPS encompassed 5.9 million people at the end of March 2019. Of this number, 2.0 million are employees who are still contributing to the scheme, 1.7 million are pensioners and 2.2 million are former employees who are entitled to a pension at some time in the future.
- There were 83,508 retirements from the LGPS in 2018-19, an increase of 7,554 or 9.9% compared with 2017-18.

MHCLG welcomes comments on any issues relating to this statistical release. Please send any comments to [sf3.statistics@communities.gov.uk](mailto:sf3.statistics@communities.gov.uk).

### **GAD request for valuation data**

We reported in [Bulletin 187](#) that GAD would be requesting valuation data as at 31 March 2019 as part of the cost management process. Rachel Abbey emailed pension managers on 17 October 2019 to let them know that GAD have now issued a [formal request](#) for that data.

GAD will be using a secure online data transfer system to facilitate the data collection process. Please read the formal request carefully as it contains important information about access to the data transfer facility and the data that you must supply. The deadline for submitting data is 18 November 2019.

### **Action for administering authorities**

GAD will be issuing email invitations to submit data by 31 October 2019. Please contact [datazone@gad.gov.uk](mailto:datazone@gad.gov.uk) if you:

- received the email sent on 17 October 2019 but would like GAD to use a different contact when they send the invitation to submit data
- have not received an invitation from GAD to submit data by 31 October 2019.

## LGPS Scotland

### Actuarial factor review - update

Roddy MacLeod (SPPA) contacted Scottish administering authorities on 4 October 2019 with an update on the review of actuarial factors. The following updates have been made to the factor spreadsheet:

- Corrections to the tables in worksheets 0-103 to 0-110 to align with the latest Club memorandum. The previous version of the spreadsheet included the wrong factors to use when calculating a Club transfer in for a member over normal pension age.
- Table 0-102 added which includes factors for valuing immediate benefit payment that had previously been omitted. These factors should be used for a club transfer where a member is over the age by reference to which an element of the transfer value is calculated. No CRA adjustment is needed if an immediate payment factor has been used.
- Tables 0-605, 0-607 and 0-614 added, which include factors for annual allowance (AA) and lifetime allowance (LTA) 'Scheme pays' calculations. LTA factors should be used from 4 October 2019. AA factors should be implemented from 6 April 2020
- Tables 1-401 and 1-402 added, which include late retirement factors.

We have uploaded the updated factor spreadsheet and new guidance to the [actuarial guidance](#) page of [www.scotlgpsregs.org](http://www.scotlgpsregs.org).

## HMRC

### Countdown bulletin 49 published

HMRC published [Countdown bulletin 49](#) on 4 October 2019. The bulletin includes useful information about the services and support that HMRC will provide now that the Scheme Reconciliation Service (SRS) has ended.

- All schemes who engaged in SRS will receive a final data cut later in 2019. You will not be able to query this information with HMRC
- HMRC will not amend SCONs held in their records as they are no longer tracking scheme membership or transfers
- HMRC will respond to queries sent via the Live Schemes Shared Workspace e-room, but only if a 'life event' is occurring
- It will no longer be possible to pay or reclaim a CEP and HMRC will not respond to queries about past CEP payments.

### Contribution Equivalent Premiums

In [bulletin 185](#) we confirmed that you must notify HMRC of all outstanding unpaid CEPs by 4 June 2019 (this date was later extended to 19 July 2019 for certain parties). HMRC will then complete the Scheme Financial Reconciliation exercise as set out in [Countdown Bulletins 45 to 49](#).

HMRC have informed the LGA that some LGPS administering authorities are still sending CEP notifications and payments.

### **Action for administering authorities**

Please review your processes and update them if necessary to ensure that you do not send any further CEP payments or notifications to HMRC.

### **Ongoing issue**

There is an ongoing issue concerning the cessation of notifying and paying CEPs. This is documented in the [recommendations](#) made by the National LGPS Technical Group to the Scheme Advisory Board (E&W). Essentially, the LGPS regulations appear to be 'out of line' with HMRC processes in a 'post contracted-out' environment. We will update administering authorities of the outcome in due course.

### **TPO**

#### **TPO publishes corporate plan for 2019/20**

The Pensions Ombudsman (TPO) published its [Corporate Plan](#) for 2019-2022 on 2 October 2019. The plan sets out TPO's strategic aims for the next three years and key priorities for 2019-20.

#### **PO 21489 – transfer to an occupational pension scheme**

TPO has upheld a complaint against an administering authority that concerns the transfer of LGPS benefits to an occupational scheme. The member was sent the 'Scorpion' warning leaflet about pension scams and signed a declaration to confirm that she had read it. The administering authority paid the transfer after completing the usual checks. TPO has instructed the administering authority to reinstate the member's benefits in the LGPS.

In the [determination](#), TPO states that he upheld the complaint because the administering authority did not:

- consider correctly whether the member had a statutory right to transfer, nor
- engage directly with the member regarding concerns about her transfer request.

A member only has a statutory right to transfer to an occupational scheme if he or she is an 'earner'. As the member in this case was not an earner – she was dependent on state benefits and had no other source of income - the administering authority had a discretion over whether to accept the transfer request.

TPO's view is that, if the administering authority had made contact with the member when she submitted the transfer request to explain:

- the risks of the transfer
- that the circumstances of her transfer request were unusual and
- that the new scheme was unknown to the council but would not have the same protections as the LGPS

that she would have changed her mind. TPO took this view partly because she had opted out of the LGPS for a large proportion of her employment, which should have indicated to the administering authority that she is not financially savvy.

The rules covering a member's right to a transfer are set out in Sections 93, 93A, 94 and 95 of the Pension Schemes Act 1993. Definitions of 'transfer credit' and 'earner' are included in Section 181 of that Act.

The High Court decision in *Hughes v The Royal London Mutual Assurance Society* (2016) was cited in the determination. The High Court overturned an earlier decision by TPO. The High Court ruled that the member in the Hughes case had a statutory right to transfer to an occupational pension scheme by virtue of being an 'earner', and that there was no requirement for those earnings to be from an employer connected with the occupational pension scheme receiving the transfer.

We will review our template transfer declaration forms to make sure the requirement that the member should be an 'earner' in order to transfer to an occupational pension scheme is included.

## TPR

### TPR initiative to improve data quality

On 2 October 2019, the Pensions Regulator (TPR) [announced](#) a crackdown on poor record keeping. TPR is in the process of contacting 400 schemes that it believes have not reviewed their data in the past three years. TPR will ask those schemes to conduct a data review within six months. We understand that some LGPS administering authorities are included in that group and that TPR planned to contact those affected by 25 October. TPR will contact a further 1,200 schemes to remind them to carry out data reviews of common and scheme-specific data every year.

### TPR publishes regulatory intervention report on Barnet Pension Fund

TPR has published a [regulatory intervention report](#) outlining how it worked with the London Borough of Barnet Pension Fund's scheme manager to improve the fund's governance and administration standards.

## Other news and updates

### Possible McCloud remedy - employer communications

No decisions have yet been made on the form that any remedy will take, when it will be implemented and who will be in scope. It is **possible** that the remedy will involve the extension of the underpin to members who are not currently offered protection. In order to perform an accurate underpin calculation for a member, a full history of part time hours changes and service break information from 1 April 2014 is needed.

It is very important that Scheme employers are made aware that hours and service break data **may be needed** for active members and members with a leaving date after 31 March 2014 (who are not covered by the current underpin).

The template data retention policy for employers enables administering authorities to set their expectations of LGPS employers participating in their fund in relation to the retention of personal data. The document details what factors employers should take account of when determining what data retention period to adopt; one such factor is that legal requirements may change, requiring the fund to recalculate benefits for which additional personal data is needed eg if the rules of the LGPS are amended to take account of recent Court cases concerning age discrimination. You can read the template on the [guides and sample documents](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).

### **Action for administering authorities**

We recommend that you make employers aware that you may need to request further data from them in relation to members who were active before 1 April 2014 (with a leaving date after 31 March 2014). Employers should ensure that their data retention policy takes account of all of the factors set out in the template data retention policy document and that they do not dispose of relevant data.

### **September 2019 rate of CPI**

On 16 October 2019, the Office for National Statistics [announced](#) that the Consumer Prices Index (CPI) rate of inflation for September 2019 was 1.7%.

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 the revaluation of pension accounts and the pensions increase to apply to deferred LGPS pensions and LGPS pensions in payment in April 2019 will be 1.7%.

### **The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018**

[The Public Sector Bodies \(Websites and Mobile Applications\) \(No. 2\) Accessibility Regulations 2018](#) came into force on 23 September 2018. The regulations state that public sector websites and mobile apps must meet the international WCAG 2.1 AA accessibility standard.

A new public sector website set up on or after 23 September 2018 must meet the accessibility standards by 23 September 2019. An accessibility statement must be published by the same date.

Existing websites that were published before 23 September 2018 must comply with the regulations by 23 September 2020. However, if new features are introduced to an existing website or if substantial changes are made, these new areas will need to be fully accessible from 23 September 2019.

Mobile apps must meet the accessibility requirements by 23 June 2021.



You can read about the accessibility requirements on the gov.uk website:

- [understanding new accessibility requirements for public sector bodies](#)
- [make your website or app accessible and publish an accessibility statement](#)
- [sample accessibility statement](#).

### GAD newsletter

The Government Actuary's department (GAD) issued the autumn edition of its [newsletter](#) on 3 October 2019. This is an informal update on what is happening within the PSPS area of GAD and includes articles about current hot topics.

### Technical queries

The LGPC team responded to 183 technical queries in the three months from July to September 2019. The table below provides a summary of the topics covered by those responses.

% of queries	Topic and additional information
16.9%	Retirement including ill health retirement, GMP, lump sum commutation, options for pension credit members and requisite benefits
16.9%	Transfers, interfunds and concurrent adjustments
14.2%	Types of employer, TUPE transfers, employer responsibilities and discretions
11.5%	Death and survivor benefits including children's pensions
9.8%	Implementation of new factors, GAD guidance and methodologies
7.7%	Paying extra – including AVCs, APCs and ARCs
5.5%	Pensionable pay and calculation of final pay
3.3%	Refunds and CEP payments
3.3%	Pension tax including annual allowance lifetime allowance and unauthorised payments

The remaining 10.9% of queries concerned topics that administering authorities raised only once or twice during the quarter.

### Communication Working Group minutes published

The Communications Working group met on 15 October 2019. Topics discussed include member videos, member website refresh, the LGPS logo, web accessibility legislation and annual benefit statements. You can read minutes of this and previous meetings on the [CWG minutes](#) page of [www.lgpsregs.org](http://www.lgpsregs.org).



## Training

### Annual governance conference

Our annual Governance Conference is taking place in York on 23 and 24 January 2020 and is [open for booking](#). The theme for the conference is 'Public service pension reform – life after Hutton'. We are pleased to confirm our key-note speakers are Anthony Arter, the Pensions Ombudsman and Lord Hutton of Furness.

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

## Wider landscape

### High Court dismisses State Pension age discrimination claims

On 3 October 2019, the High Court dismissed claims that the increase in State pension age from 60 to 66 for women born in the 1950s was discriminatory. The [judgment](#) found that there had been no discrimination based on sex, or age and sex combined. The judges ruled that the legislation does not treat women less favourably than men in law, rather it equalises a historic asymmetry between men and women and corrects historic discrimination against men.

The Backto60 campaign group have since filed for permission to appeal the decision.

### PLSA launches new Retirement Living Standards tool

The Pensions and Lifetime Savings Association (PLSA) launched its new [Retirement Living Standards](#) at its annual conference on 17 October 2019. The Retirement Living Standards are designed to help people picture the lifestyle they want when they retire, and what that lifestyle might cost. You can find more information about the Retirement Living Standards on the PLSA's [dedicated website](#).

### Office of Tax Simplification recommends reforms to the taxation system

The Office of Tax Simplification has published a [report](#) that includes recommendations to help tackle complex tax issues that affect UK tax payers. Their recommendations relating to pension taxation are to:

- Remove the difference in outcomes for people who earn less than the personal allowance. Under current rules, whether these individuals benefit from tax relief depends on whether their employer operates a pension scheme on a 'net pay' or 'relief at source' basis.
- Review the annual and lifetime allowances and how they deliver policy objectives, taking account of the 'distortions' they sometimes produce.
- Review the operation of the Money Purchase annual allowance and consider whether it is set at the correct level.
- Improve the information about tax provided to a person when they first start to receive the State Pension.

## The Queen's Speech

The Queen's Speech delivered on 14 October 2019 confirmed that a new Pension Schemes Bill will be introduced. According to the [Pensions Schemes Bill](#) and [background briefing notes](#), the Bill will:

- strengthen TPR's powers
- provide a framework to support pensions dashboards and
- introduce regulations covering the right to a pension transfer.

Topics that are notable because of their absence from the Bill are changes in Auto-enrolment rules and any mention of support for the women born in the 1950s who have seen their SPA increase from 60 to 66.

## Legislation

### United Kingdom

SI	Reference Title
<a href="#">2019/1351</a>	The Local Government Pension Scheme (West Midlands Integrated Transport Authority Pension Fund and west Midlands Pension Fund Merger) Regulations 2019

## 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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