

Withdrawal of GAD LGPS (E&W) passports – Q & A

What has happened?

Regulations were laid by Parliament on 4 April 2007 which will implement changes affecting all LGPS members in England and Wales from 1 April 2008.

These regulations define the form of future pension provision under the LGPS. Although some small amendments may be made before the scheme comes into effect next year.

Why does this mean GAD LGPS passports have been withdrawn?

Government's Fair Deal policy statement sets out the protections to the pensions of staff if they move with their workforce from the public to the private sector. This requires contractors to provide transferring staff with access to a broadly comparable pension scheme or continuing access to the LGPS. A broadly comparable scheme is one which in the opinion of a qualified actuary provides that no identifiable employees will suffer material detriment overall in terms of their future accrual of benefit when compared to the public service scheme.

GAD issued a statement of practice in 1999 describing the principles and methods it uses to assess broad comparability. For schemes which satisfy these conditions we are able to provide an actuarial opinion that they meet the test of broad comparability above.

The key comparator for GAD's assessment is the expectations of staff under the public service scheme. Where material changes are made to the public service scheme which affect member's future expectations under this scheme then our opinion must be reassessed. The regulations laid in April 2007 made such changes to members' future expectations in the LGPS. Actuarial opinions we had given previously did not take account of the changes and are therefore no longer appropriate for new transfers of staff where broad comparability applies. This is why GAD LGPS passports have been withdrawn. All our passports incorporate a clear warning of this possibility.

How will employees who are going to be transferred be affected?

Employees will continue to have their pensions expectations protected. They will retain pension rights broadly comparable to the LGPS or will have continued access to LGPS. However, broadly comparable pension terms will reflect the changes employees would have expected in their pension arrangements had they remained in public service.

The new LGPS will take effect from 2 April 2008 so why change passports now?

The assessment of broad comparability is based on the value of the expected pension package over the future working life of employees concerned. The changes to LGPS will affect current staff as well as new recruits from April 2008. The regulations change the prospective pension package for everyone now. So the new scheme has to be included in broad comparability assessment immediately.

Why have passports been withdrawn with effect from 26 April 2007?

Although the regulations were laid before Parliament on 4 April the DCLG circular assessing that event reached GAD and other stakeholders in local government on or around 26 April. GAD took the view that it was reasonable to assume that there was general awareness of the regulations from that date. This would be a reasonable date from which to effect change without unnecessarily disadvantaging employees, contractors or contracting authorities already in the process of letting contracts.

Why weren't GAD passports withdrawn following the September (December) 2006 changes to LGPS whereas they are being withdrawn now?

The changes which were implemented in 2006 affected normal pension age and the phasing out of the 'Rule of 85'. These were such that our opinion on broad comparability could not be invalidated if the contractor's scheme remained unchanged so we had no reason to withdraw passports.

In practice many contractors approached us to undertake a reassessment as they planned to make changes in line with the LGPS.

The new LGPS incorporates a range of changes which alter the balance of benefits between scheme members. A broadly comparable scheme needs to provide that no identifiable employees will suffer material detriment overall in terms of their future accrual of benefit when compared to the public service scheme. The rebalancing of benefits, and employee contributions, in the new LGPS make it necessary to reassess comparability.

How does this affect existing contracts?

The test of broad comparability is carried out at the point staff transfer and is concerned with future benefit accrual. There is no ongoing obligation on contractors to maintain comparability with the public service comparator scheme in the event of changes being made. The withdrawal of GAD passports therefore has no implications for contracts already in force or employees who have already been transferred to contractors' schemes.

How does this affect contracts which are currently being negotiated?

Contractors will need to contact GAD to explore ways in which their scheme can be modified to allow it to continue to meet the broad comparability criteria. We are not able to provide general guidance on what changes may be appropriate as much will depend on the structure of each contractor's scheme. We expect changes to be relatively straightforward with new passports being issued quickly. Depending on time constraints this may require some contractual provision for post transfer agreement of pension terms.

The GAD certificates were withdrawn on 16 May with retrospective effect to 26 April. How does this affect contracts where the transfer of staff took place between 26 April and 16 May?

In withdrawing its current passports, GAD is saying that the opinions it has given that contractors schemes met the broadly comparable test are no longer valid for future staff transfers. Contracting authorities are responsible for deciding how the broad comparability should be met. A number of approaches are possible and contracting authorities may wish to discuss these with their advisers, or GAD. Contracting authorities are likely to wish contractors to obtain revised passport certificates within a given timescale.

How does it affect contractors generally?

Contractors who wish to re-obtain a valid passport should contact GAD to explore ways in which their scheme can be modified to allow it to continue to meet the broad comparability criteria. We are not able to provide general guidance on what changes may be appropriate as much will depend on the structure of the contractor's scheme.

Won't this be costly and time consuming?

The passport system is a very efficient and effective means for all parties to be assured that the broad comparability requirements are being met. There will be some costs for contractors wishing to re-obtain a valid passport. However, this should be limited as schemes should generally only require minor changes. New interim passports can be issued within a matter of days if reasonably complete proposals consistent with our statement of practice are submitted to us.

Does this affect LGPS Scotland passports?

No. The test for broad comparability in Scotland will remain unchanged until such time as regulations are laid to give effect to any changes. Existing passports remain valid and new ones will continue to be issued based on the current LGPS arrangements in Scotland.

Contractors tendering for local government business across Great Britain may wish to hold separate passports for England & Wales and for Scotland. Contracting authorities should make sure that the appropriate LGPS passport is being used.

Are other GAD passports affected?

Both the National Health Service Pension Scheme and the Principal Civil Service Pension Scheme are also currently under review and we expect similar action will be necessary in respect of passports at the appropriate time.

Require more information?

Your usual GAD contact will be able to provide advice and assistance. Or email us at pensions@gad.gov.uk

