

The Local Government Pensions Committee
Secretary: Terry Edwards

CIRCULAR

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No. 207 – FEBRUARY 2008

UPDATE ON THE NEW LOOK LGPS IN ENGLAND AND WALES AND ON OTHER CURRENT MATTERS

Purpose of this Circular

1. This Circular has been issued to provide authorities with an update on:
 - a) progress on the new look LGPS for England and Wales which is due to come into effect on 1st April 2008
 - b) the latest on the 85 year rule
 - c) proposals for a third tier of ill health benefits
 - d) cost sharing in the new look LGPS
 - e) actions being taken by the LGE / LGPC to publicise the new scheme
 - f) pensions for councillors
 - g) matters to be considered in the run up to April 2008
 - h) governance arrangements
 - i) consultation on admitted body status provisions

The information contained in this Circular is based on the LGPC Secretariat's current understanding of information that is presently available. Whilst authorities may already be aware of much of the material, the Circular will be a useful checklist for employers in the lead up to April.

Progress on the new look LGPS for England and Wales

2. On 4th April 2007, Communities and Local Government (CLG) issued the LGPS (Benefits, Membership and Contributions) Regulations 2007. Those regulations set out the benefits package for the new-look LGPS in England and Wales which is due to come into operation on 1st April 2008. In consequence of comments made on those regulations, CLG are to issue a set of amendment regulations. We understand from CLG that they hope to have these made and laid by mid-February.
3. The regulations for the other two parts of the jigsaw, namely the Transitional Provisions Regulations (which detail how the pre and post April 2008 benefit structures will interact) and the Administration Regulations were made on 6th February 2008 and will be laid before Parliament shortly thereafter.
4. The Government Actuary guidance on how certain provisions of the new look scheme will work is awaited. We understand from CLG that the guidance on increasing the benefits of those who defer payment of benefits beyond age 65 and guidance on the new facility for employees to purchase up to £5,000 of additional annual pension is to be issued shortly, with other GAD guidance to be issued before the end of March or earlier, if possible.

The latest on the 85 year rule

5. Following a Ministerial Written Statement made to Parliament by John Healey, CLG issued a letter on 13th December 2007 stating that no decision had yet been made on whether to extend the 85 year rule protection so as to provide full, rather than tapered, protection to 2020 for those members who:
 - were members of the scheme before 1st October 2006, and
 - were born between 1st April 1956 and 31st March 1960 (both dates inclusive), and
 - would attain the 85 year rule by 31st March 2020
6. The capital cost of moving to full protection for this group of members was estimated to be of the order of £0.35 billion to £0.4 billion. In payroll terms, this equates to some 0.1% of payroll or, in total, about £25 million annually for 20 years.
7. The Government wishes to consider a fresh assessment of costs and experience using the 2007 Fund valuation data which is now becoming available. CLG have, therefore, written to all Pension Funds (letter dated 21st January 2008) asking them to authorise their actuaries, by no later than 31st January 2008, to release relevant data from the 2007 Fund valuations to the Government Actuary. This will allow the Government Actuary's Department (GAD) to undertake the necessary actuarial costings and assessment by the middle of March. It is envisaged that GAD's calculations will be completed in

time for a meeting of the Policy Review Group in April to discuss the results and next steps. The Policy Review Group is a group chaired by CLG and comprised of representatives from the employers, Funds, unions, the Association of Consulting Actuaries, the Government Actuary's Department, PPMA, etc.

8. The LGE and LGA line throughout has been and continues to be that any extension of protection should not be at cost to employers or tax payers, either directly or indirectly via foregone savings that would otherwise have been available to employers.

Proposals for a third tier of ill health benefits

9. The Benefits Regulations for the new scheme, as **currently** written, contain a two tier ill health retirement benefit package under which, if a member's employment is terminated because of permanent ill health and the member has at least two years membership, the pension payable is to be based on the person's accrued membership plus:

Top Tier

- o 100% of prospective membership between leaving and age 65 where the member has no reasonable prospect of being capable of obtaining gainful employment before age 65, or

Middle Tier

- o 25% of prospective membership between leaving and age 65 where the member is unlikely to be capable of obtaining gainful employment within a reasonable period of time but is likely to be able to be capable of obtaining gainful employment before age 65.

Gainful employment is defined as "paid employment for not less than 30 hours per week for a period of not less than 12 months".

There is to be an underpin for certain existing older members (aged 45 or over on 31st March 2008) so that they receive no less than they would have received under the current scheme rules (i.e. under the LGPS Regulations 1997).

10. At the time the Benefits Regulations were issued it was proposed that there should be a third, bottom tier covering members whose employment is terminated on the grounds of permanent ill health but who are likely to be capable of obtaining gainful employment within a reasonable period of time after leaving. Under the bottom tier, employers would have been provided with powers to pay a reviewable benefit from their revenue account (not from the Pension Fund) which would not continue if the person obtained alternative employment.
11. Discussions between CLG, employer representatives and the national unions since the initial proposals for a third tier were issued failed to reach a consensus on how the bottom tier should work and who it should cover.

12. As a result, the CLG issued a further consultation paper on 21st November 2007. The consultation paper suggested that:
- those judged by a qualified occupational health practitioner to be capable of gainful employment within a reasonable period of time after leaving would fall into the bottom tier
 - this would provide a benefit payable from the Pension Fund (not from the revenue account)
 - the benefit would be payment of their accrued pension benefits, with no enhancement
 - the pension would subsequently be suspended if the person obtained gainful employment, defined as "paid employment for not less than 30 hours per week for a period of not less than 12 months".
13. The consultation paper also suggested that the qualifying period to be eligible for an ill health benefit under all three tiers (top, middle and bottom) should be reduced from 2 years membership to 3 months membership.
14. The LGE has submitted a response to the CLG consultation paper. This can be viewed on the LGE website under "What's new" at <http://www.lge.gov.uk/lge/core/page.do?pagelId=60097>
15. In essence, the response says that a two tier ill health system would be preferable to a three tier system but that, if a third (bottom) tier was to be provided, it should take the form of a one off lump sum compensation payment (outwith the Pension Fund) rather than a short-term reviewable pension from the Pension Fund. If the CLG nevertheless decide that the third tier should be a short term reviewable benefit from the Pension Fund, our response makes some suggestions as to how this should operate.
16. With regard to the reduction in the period to be entitled to an ill health benefit, we believe that the period to be entitled to a benefit should be reduced from 2 years to 3 months but the period to be entitled to an enhanced benefit should remain at 2 years.
17. Clearly, the continuing uncertainty around the tiered ill health provisions and lack of definitions over such terms as "a reasonable period" is making it very difficult to deal with cases that are currently being referred by authorities to their occupational health advisers. We understand that CLG hope to make an announcement about the bottom tier ill health provisions, etc by mid-February, although the actual regulations are not likely to follow until after then. Also, due to the shortening timecales, the statutory guidance on ill health retirements which is to be issued by the Secretary of State is likely to have to be issued in stages, with tranche 1 providing initial informal guidance and a subsequent update(s) being issued to incorporate more detailed statutory guidance. We also understand that requests were made during the consultation period for transitional arrangements to apply where individual ill

health retirement processes are currently underway and that these representations are being seriously considered by the Minister. In the meantime, employers may wish to consider the interim options that appear to be available as outlined in paragraph 26 below.

Cost sharing

18. An element of the new look LGPS is that there is to be a degree of cost sharing in the future between employees and employers, rather than employees paying a fixed employee contribution rate and the employer meeting the balance of all pension cost.
19. We understand that CLG intend to issue a consultation document entitled "Sustaining the LGPS in England and Wales" for comment, analysis and discussion. This will set out CLG's initial views on how the cost share mechanism could operate and will consider what costs should be shared and how the proportion of any cost that is to fall to employees should be met (for example, via an increase in the employees' contribution rate, a reduction in future service benefit accrual, or an increase in the scheme's normal retirement age). The consultation will last until Mat 2008. The cost sharing mechanism has to be agreed by March 2009 to enable the Secretary of State to issue statutory guidance before 31st March 2009.

Actions being taken by the LGE / LGPC to publicise the new scheme

20. The LGE / LGPC ran a series of (fully booked) events on the new look LGPS, primarily for Pension Fund administering authorities, during the tail end of 2007 plus 3 regional seminars on ill health. Twenty three more training events on the new look LGPS are being run between the end of January and April 2008. Demand has been so great that all the events are sold out. We are also giving presentations at events organised by the Regional Employer organisations in order to provide updates to Heads of HR, elected members, etc.
21. A newsletter explaining how the scheme changes affect employees has been prepared for use in the lead up to April 2008. A copy is attached at Annex 1 but employers should check with their Pension Fund administering authority before using the newsletter, as the administering authority may have already provided employers with communication material or may be in the process of preparing their own communication material for employers to use. The newsletter should not be issued to councillors who are members of the LGPS as councillor members are, for the time being, remaining in the current scheme (see paragraph 25 below).
22. We have also produced a DVD and CD-Rom on the new look LGPS. The DVD has just been sent to all LGPS Pension Fund administering authorities in England and Wales and the CD-Rom will be sent to them shortly. It will be for each administering authority to decide how best to use the DVD and CD-Rom as part of their communication strategy with scheme members and employers. A version for loading onto intranet / internet sites is also being

sent to the administering authorities. We are **not** sending copies of the DVD, CD-Rom or intranet / internet materials direct to authorities (only to the Pension Fund administering authorities).

23. Users of the DVD / CD Rom can choose which language to view the presentation in (English or Welsh). The presentation is in three parts:

- why the scheme is changing
- an overview of the new scheme
- how existing scheme members are affected (Questions and Answers)

All three parts can be played straight through (play all) or each part can be played separately. Accessibility options are also available i.e. users can choose to have sub-titles displayed, and there is an option to hear the presentation as an audio version. A transcript of the presentation can also be printed from the DVD if run on a computer or from the CD-Rom version.

Clearly, existing employees who are members of the scheme will be interested in viewing all three parts of the presentation but new members from 1st April 2008 will only wish to see part 2 (an overview of the new scheme).

We are hoping to put the presentation on the national LGPS website for scheme members (www.lgps.org.uk).

24. The literature the LGE / LGPC produces for use by Pension Funds is currently being updated as is the information on the national LGPS website for scheme members (www.lgps.org.uk). It is important to note, however, that full employee guides to the new scheme will not be completed and made available until the LGPS Secretariat has received all the relevant Regulations and statutory guidance from CLG.

Pensions for councillors

25. We understand from CLG that the existing pension scheme for Councillors is to be retained for at least another year (2008/09), pending the outcome of recommendations from the Councillors' Commission which was, amongst other things, looking at the nature of allowances and pension provision. Thus, Councillors who are members of the LGPS will continue to be in the current Career Average Revalued Earnings (CARE) scheme, paying a standard contribution rate of 6% and building up benefits at the current rate of a 1/80th pension plus a 3/80ths lump sum.

Matters to be considered in the run up to April 2008

26. The following represents a list of things to consider and / or do before April 2008. This is unlikely to be an exhaustive list at this stage due to the lack of final regulations but here are the main points for consideration.

Automatic Entry from 1st April 2008

All employees of Part 1 Scheduled Bodies (see list at Annex 2) who have a contract for 3 months or more and who are under age 75¹ will be eligible for membership of the LGPS. Employees of Part 2 Scheduled Bodies (Designating Bodies² - see list at Annex 2) and employees of Admission Bodies who have a contract for 3 months or more and who are under age 75 will be eligible for membership of the LGPS if they are designated for membership by their employer or are permitted access under an admission agreement. Employees with a contract for less than 3 months or who are 75 or over cannot join the scheme.

Part 1 Scheduled Bodies and Designating Bodies will need to amend their procedures on new starters ensuring that all employees who are eligible for membership (including eligible casual employees who, under the old scheme, could only have joined by opting into the scheme) are automatically enrolled into the scheme in the absence of an opt-out form.

Eligible employees of Admitted Bodies will, as now, not be auto-enrolled but can opt into the scheme.

It should be noted that an employee of a Part 1 Scheduled Body who has a contract of employment for less than 3 months which is extended so that, in aggregate, the contract periods are for 3 months or more, should be auto-enrolled from the date of the contract extension (unless they opt out or are aged 75 or over). The employee will have the option to backdate contributions to the original start date. Employers will need to put procedures in place to pick these cases up and offer backdated membership to the employee.

Similarly, an employee of a Part 2 Scheduled Body who has a contract of employment for less than 3 months which is extended so that, in aggregate, the contract periods are for 3 months or more, should be auto-enrolled from the date of the contract extension if the employer has designated them as eligible for membership of the LGPS (unless the employee chooses to opt out or is aged 75 or over). However, the backdating option mentioned above does not apply to employees of Designating Bodies.

An employee of an Admitted Body who has a contract of employment for less than 3 months which is extended so that, in aggregate, the contract periods are for 3 months or more, will be able to opt into the scheme from the date of the contract extension if they are otherwise eligible for membership of the scheme under the admission agreement (unless the

¹ Regulation 12 of the draft LGPS (Administration) Regulations says that a person can only be a member up to the day before age 75. It should be noted that paragraph 1(1)(a) of Part 1 of Schedule 29 of the Finance Act 2004 says that a lump sum payable on retirement is only an authorised pension commencement lump sum if the member becomes entitled to it before reaching the age of 75.

² Formerly known as "Resolution Bodies"

employee chooses to opt out or is aged 75 or over). The backdating option mentioned above does not apply to employees of Admission Bodies.

Note that under the new scheme, employees with more than one contract will have the right to opt out of membership in all or some of their employments. This may not conform with your current practice due to local interpretation.

All existing employees at 31st March 2008 who have opted out of the scheme / not opted into the scheme will not be auto enrolled on 1st April 2008 (but will have the right to opt in if they have a contract for 3 months or more and are under age 75).

The old rule that an employee who opted out more than once could not rejoin unless the employer agreed has not been carried forward into the new scheme. If, within a written policy on the exercise of discretions under the LGPS, an employer has a policy on allowing optants out to rejoin the scheme, the employer should remove that provision from their policy statement.

Existing Casual Employees at 31st March 2008

Employers will need to identify whether, in the case of existing contributors to the scheme who are casual employees, there is mutuality of obligation in employment law i.e. there is a contract of employment between the parties under which the employer is obligated to offer work and the employee is obligated to accept work when it is offered – see the House of Lords decision in the case of Carmichael and Others v National Power PLC which was appended to an old LGPC Circular (Circular 87 of June 2000) at <http://www.lge.gov.uk/lge/aio/56226>.

If there is mutuality of obligation, and the mutuality of obligation contract is open ended (or is for at least 3 months), that person will remain in the scheme on and from 1st April 2008 until such time as the mutuality of obligation contract ends (but they cannot remain in the scheme on or after age 75).

If, however, the nature of the relationship between the employer and an existing casual scheme member means there is no mutuality of obligation (i.e. the employer is not obligated to offer work or, where work is offered, the person is not obligated to accept it), technically³ the person should be removed from the scheme on the first day on or after 1st April 2008 when they are not offered work or are offered work but do not accept it.

³ This is the LGPC Secretariat's technical understanding of the Regulations. The Secretariat understands, however, that a number of Funds will not, in practice, follow this purist technical line but will, instead, allow existing casual employees who are members of the scheme at 31st March 2008 to remain in the scheme.

New Casual Employees from 1st April 2008

For new casual employees, employers will need to amend procedures to establish whether or not there is mutuality of obligation in employment law in order that personnel / payroll can establish their eligibility for membership in accordance with the rules as detailed in the section above headed "Automatic Entry from 1st April 2008".

Contribution Bands

Employers⁴ will need to establish their policy⁵ on how existing employees who are members of the scheme will be allocated to a contribution band on and from 1st April 2008, how new employees commencing on or after 1st April 2008 will be allocated to a contribution band, and determine in what circumstances the banding decision will be revisited.

In 2008/09 employees will pay contributions according to the table shown below based on their whole-time equivalent pensionable pay. Thus, the rate for a part-time employee will be determined by reference to the whole-time equivalent rate of pay, not on the part-time pay actually earned. Employers will also need to determine how to calculate the whole-time equivalent pensionable pay for:

- sessional workers, which should be reasonably straight forward where the payment for the session is linked to an hourly rate derived from an annual pay figure / spinal column point,
- fee earners, including those where a fee is paid as a separate payment for the role undertaken. For example, if a returning officer receives a fee of £8,000, separate from the salary for their main post, the contribution rate would be determined by reference to the amount of fee paid and so would be 5.5%, and
- employees with variable pensionable payments.

The figures in the table below will increase on 1st April each year by the rise in the Retail Prices Index with the first increase being in April 2009⁶.

⁴ Prior to 1st April 2008 it was an administering authority responsibility to determine the contribution rate an employee should pay. From 1st April 2008 it becomes an employing authority decision.

⁵ There is no requirement to have a written "policy". However, employers will undoubtedly have a policy on how they will determine an employee's contribution rate and it would make sense for this policy to be a written one (to help payroll and personnel officers in making their decisions when allocating employees to a contribution band).

⁶ In practice, the new table will be applied from the beginning of the first pay period in each year (even though this pay period may not actually start on a 1st April e.g. for weekly, fortnightly or 4 weekly paid staff).

Band	Whole-time equivalent pay	Contribution rate
1	Up to £12,000	5.5%
2	More than £12,000 and up to £14,000	5.8%
3	More than £14,000 and up to £18,000	5.9%
4	More than £18,000 and up to £30,000	6.5%
5	More than £30,000 and up to £40,000	6.8%
6	More than £40,000 and up to £75,000	7.2%
7	More than £75,000	7.5%

The LGPC Secretariat understands that the Transitional Provisions Regulations will require employers to determine the rate before April. Apparently, employers could do this by reference to, for example, the WTE rate at 31st March 2008 or, if they know what someone's pay will be from 1st April, by reference to their WTE rate from 1st April.

The band for any whole-time term-time employee is the band relevant to the pay the person receives for the weeks worked e.g. 44 weeks rather than 52 weeks. The band for any part-time term-time employee is the band relevant to the whole-time equivalent pay the person would have received in the weeks worked e.g. 44 weeks rather than 52 weeks.

The overall effect therefore is as follows:

- for someone who works, say, 37 hours per week for 52 weeks of the year, the contribution band is assessed by reference to their actual pensionable rate of pay.
- for someone who works, say, 20 hours per week for 52 weeks of the year, the contribution band would be assessed by reference to the WTE equivalent pay i.e. gross up their actual pensionable rate of pay by 37/20.
- for someone who works, say, 37 hours per week but for only 44 weeks of the year, the contribution band is assessed by reference to their actual pensionable rate of pay, not the pay grossed up by 52/44.
- for someone who works, say, 20 hours per week for 44 weeks of the year, the contribution band would be assessed by reference to the WTE equivalent term-time pay i.e. gross up their actual pensionable rate of pay by 37/20 (but do not gross it up further by 52/44).

It should be noted that, according to CLG, an employee whose post could be 52 weeks per year but who, for personal reasons (e.g. for work-life balance reasons or to fit in with school holidays), chooses with the agreement of the employer to work less than 52 weeks will not be treated as a term-time employee, but as a part time employee.

Employers may be asked to explain why the contribution band for a part-time employee is determined by reference to their whole-time equivalent rate of pay. Well, take two people on the same scale point, one who is half-time and earning £10,000 with the other being full-time earning £20,000. Both are receiving the same hourly pay rate.

Using the WTE pay rate for both would result in a contribution rate of 6.5% and:

- for one year in the scheme the full-timer would pay $£20,000 \times 6.5\% = £1,300$ and get a benefit of $1 \times 1/60^{\text{th}} \times £20,000 = £333.33$
- for one year in the scheme the half-timer would pay $£10,000 \times 6.5\% = £650$ and get a benefit of $0.5 \times 1/60^{\text{th}} \times £20,000 = £166.67$

So, the half-timer would pay exactly half the contributions and get exactly half the pension of a full-timer.

If, on the other hand, the contribution rate had been based on actual pay, rather than the WTE pay, the full-timer would have paid 6.5% and the half-timer would have paid 5.5%. Thus:

- for one year in the scheme the full-timer would have paid $£20,000 \times 6.5\% = £1,300$ and got a benefit of $1 \times 1/60^{\text{th}} \times £20,000 = £333.33$, and
- for one year in the scheme the half-timer would have paid $£10,000 \times 5.5\% = £550$ and got a benefit of $0.5 \times 1/60^{\text{th}} \times £20,000 = £166.67$

In this latter scenario, the half-timer would have paid much less than half the contributions of a full-timer, but would get a benefit that is exactly half that of a full-timer. This would clearly not have been equitable⁷. For this reason, and because CLG took the view that the pro-ration principle in the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 [SI

⁷ Some may seek to argue that, nevertheless, the method of calculation disadvantages some part-time employees who pay more for a benefit than a full-time employee. Take, for example, Employee A who earns £12,000, works full time for 10 years and will get a pension equal to 10/60ths of £12,000 for a contribution rate of 5.5%. Employee B earns £24,000 full time salary but works 18.5 hours per week for 10 years and will get a pension equal to 5/60ths of £24,000 for a contribution rate of 6.5%

Both employees will receive the same pension of £2,000 per annum but:

Employee A will have paid in 5.5% of £12,000 for 10 years = £6,600 of contributions
whereas
Employee B will have paid in 6.5% of £12,000 for 10 years = £7,800 of contributions

However, the argument that the part-timer, Employee B, has paid more for the same benefit is not valid as the basis of all part-time equality legislation is the need to judge a case against an equivalent full-time **comparator** employee, not against someone doing a completely different job.

2000/1551] applies to deductions as well as hourly pay rates, the decision was taken to base the contribution rate of a part-time employee on their WTE pay.

In order to ensure that the payroll system is updated to cater for tiered employee contributions, employers will need to speak to their IT section (if the payroll programmes are maintained "in-house") or to their payroll software supplier or, if payroll has been outsourced, to their payroll provider. Payroll programmes will need to be amended and tested to ensure the programme can effectively implement the employer's policy i.e.

- it can allocate staff to the correct band (or bands if, for example, an employee has two jobs, each one of which falls into a different band),
- it can update the bands each April in line with Pensions Increase (i.e. in line with the published RPI figure), and
- it can reallocate employees to the correct band at any time during the year (if the employer's policy is to do so – see below regarding reallocation).

Authorities responsible for education should ensure that schools with delegated budgets who run their own payroll or who have outsourced their payroll are aware of and comply with the Council's policy.

It will be necessary to ensure that payroll and personnel officers understand the policy in order to ensure its effective implementation and to deal with queries from employees.

The initial attribution to a contribution band must be carried out on a reasonable basis. Employees must be notified of the employer's decision on the contribution rate they will pay (determined by the pay band they are being placed in) and of their right of appeal against that decision under the scheme's Internal Dispute Resolution Procedure (IDRP). Employers should, if they have not already been contacted by the Pensions Section, check with their Pension Fund administering authority to confirm the procedure the administering authority wishes them to follow i.e. whether the employer should notify the employee of their contribution rate and right of appeal or whether the employer should notify the Pensions Section who will, in turn, notify the employee via a statutory notification. The LGPC Secretariat suspects, however, that the latter option will not be feasible in relation to existing staff due to the short time left between now and April 2008. If the former option is followed (i.e. the employer notifies the employee direct), employers should already have IDRP letters, leaflets, forms etc in place (as these already form part of the current scheme's procedures). In the absence of any standard letters or leaflets, employers may wish to use the draft letter

and explanatory leaflet⁸ attached to this Circular (at Annex 3) but employers should check with their Pension Fund administering authority first as the administering authority may have other letters, leaflets or forms that they would prefer the employer to use.

Any appeal by an employee against the band they had been allocated to would be made under the LGPS Internal Dispute Resolution Procedure (IDRP). At stage 1 of the IDRP the scheme member would appeal to the person appointed by the employer to hear stage 1 appeals. The employer should already have someone appointed to hear appeals under IDRP (as the employer is already required to tell employees about the right of appeal and who to appeal to when notifying employees of any pension decision under the current scheme). If the appointed person does not agree with the appellant and turns down the appeal, the appellant has the right to refer the complaint to Stage 2 i.e. to the administering authority. If the appeal fails at Stage 2, the person then has the right of appeal to the Pensions Ombudsman.

Employers will have to notify the Pensions Section of the contribution rate each employee has been allocated to (and of any subsequent change in the rate and the date of the change). Unless the Pensions Section has already been in contact to confirm procedures, employers will need to liaise with the Pensions Section to confirm the processes the administering authority wishes employers to follow i.e. how and when to notify the Pensions Section of employee contribution rates. As now, employers will be required to send a statement to the Pensions Section of the contributions deducted from employees (perhaps monthly or annually, depending on the procedures of the administering authority). However, that statement must now show:

- the name, pay and band of each employee who is a scheme member
- which employees are paying Additional Regular Contributions (ARCs) and / or Additional Voluntary Contributions (AVCs)
- the amounts which represent deductions in each of the pay bands from the pay of each of the employees and the periods covered by the deductions, distinguishing any amounts representing deductions for any voluntary contributions.

The new scheme Regulations are likely to say that, once allocated, an employer can reallocate an employee to a new band following a material change in their pay. It seems that an employer could, therefore, reattribute

- a) once a year
- b) upon a contractual change

⁸ The CLG produced an IDRP guide for employees, including a form for scheme members to complete under the dispute procedure. This is available on their website at <http://www.xoq83.dial.pipex.com/empga.htm>

- c) whenever pay changes

provided that the decision to reallocate is reasonable.

Each option has a number of pros and cons.

Under option (a) the bands would be reassessed, say, at the beginning of each April. The advantages of this approach are:

- i) it is the simplest approach from a payroll perspective
- ii) if reassessed at the beginning of the financial year there would be no need to split pay bands and contributions on the end of year return to the Pension Fund administering authority.

The disadvantages of option (a) are:

- i) if a person's pay, because of a backdated pay award, a regrading, increment, etc. increases during the year and the increase would have taken them into a new band, the person will not be allocated to that new band, paying the higher contribution rate, until the following April. Overall, the contribution "take" from employees would be marginally less than would have been the case if the bands were reassessed whenever there is a pay change. However, it is likely that it would be many years before this would have an impact on the employer's contribution rate
- ii) if a person's pay decreases (e.g. as a result of a downgrading, be that voluntary or otherwise) and the decrease would have taken them into a lower band, the person will not be allocated to that new band, paying the lower contribution rate, until the following April. Persuading an employee in this situation that they should continue for the remainder of the year to pay at the higher rate might be difficult
- iii) if the reassessment is undertaken once a year, but the date chosen to do this is not April (i.e. the beginning of the financial year), it would be necessary to split pay bands and contributions on the end of year return to the Pension Fund administering authority.

The advantages and disadvantages of option (b) are:

Advantages

- i) it will only be necessary to look at reallocating to a new a band as and when there is a contractual change for an individual member of staff
- ii) employees will be put into the correct band as and when there is a contractual change. This will mean that the employer will be getting

the higher level of contribution from those whose pay goes up, and can reallocate where appropriate to a lower band where pay goes down, rather than delaying until, say, the following April.

Disadvantages

- i) it is not the simplest approach for payroll
- ii) it will be necessary to split pay bands and contributions on the end of year return to the Pension Fund administering authority
- iii) it will be necessary for the employer to define what is meant by a “contractual change”
- iv) the contribution take from employees might diminish over the years. For example, an employee’s pay could increase every year by way of increments and pay rises and these might eventually have merited being placed in a higher band, but if (due to the definition used by the employer) there had been no “contractual change”, it would not be possible to move that employee into the higher band.

The advantages and disadvantages of option (c) are:

Advantages

- i) employees will be put into the correct band as and when there is a change in pay. This will mean that the employer will be getting the higher level of contribution from those whose pay goes up, and can reallocate where appropriate to a lower band where pay goes down, rather than delaying until, say, the following April.

Disadvantages

- i) it is not the simplest approach for payroll
- ii) it will be necessary to split pay bands and contributions on the end of year return to the Pension Fund administering authority
- iii) also, if a person is reattributed to a new pay band on account of a retrospective pay award or regrading, etc, whilst the contributions on the arrears and on the pay from then on will be at the new rate, the employer will need to determine whether arrears of contributions should be collected on the pay already received (being the difference between the contribution rate the employee paid contributions at and the rate they should have paid contributions at if the pay award / regrading had been agreed at the correct time rather than being retrospective).

It should be noted that it is not appropriate or possible to reassess an employee’s band in consequence of that person going on to half or reduced

pay (due to sickness or maternity, paternity, parental leave, adoption leave, etc) as the band has to be assessed by reference to the whole-time equivalent rate of pay for the job. The fact that someone has gone on to reduced or half pay does not alter the whole-time equivalent rate of pay for their job.

From the feedback received so far by the LGPC Secretariat, it appears that a number of employers are adopting option (a) above, at least for 2008/09, and intend to review the situation at the end of the year to see whether it has caused any major problems, what the "loss" of employees' contributions had been compared to the contributions that would have been collected if bands had been reassessed during the year as per options (b) or (c) above and, if there was a "loss", what the relative cost of changing payroll and end of year reporting systems would be. Using this cost / benefit analysis, and taking account of the capabilities of the payroll system, the employer will then be able to decide whether to stick with the original decision or make a change.

Lower Rate Rights members

Employers will need to increase the contribution rate of all 5% contributors to 5.25% with effect from 1st April 2008, to 5.5% from April 2009, the lower of 6.5% and the figure from the contribution table from April 2010, and the figure from the contribution table from April 2011.

Absences from 1st April 2008

For authorised leave of absence on reduced or no pay for less than 31 days, employers should ensure that, as now, standard contributions are paid on the pay the employee would have received but for the authorised absence.

For authorised leave of absence on reduced or no pay for more than 30 days, employers should ensure that, for the first 30 days of authorised absence, standard contributions are paid on the pay the employee would have received but for the absence (with an option to pay for any absence beyond the first 30 days up to a total of 3 years, including the first 30 days). This may not currently be your practice due to local interpretation.

It should be noted that if a member goes on unpaid leave of absence or on maternity leave, paternity leave or adoption leave, he / she must continue to pay for any added years they were purchasing under the old scheme, and for any additional pension they are purchasing by way of Additional Regular Contributions (ARCs) under the new scheme, based on the pay they would have received had they not been on leave (unless the person opts to stop paying any such contributions). The person may continue to pay any Additional Voluntary Contributions (AVCs) they were paying.

Systems may need to be amended to cater for the above.

Final Pay, Certificates of Protection, etc

In the new scheme, retirement benefits for leavers on or after 1st April 2008 will be based on:

- a) the highest actual 1 year's whole time equivalent pay in the last 3 years (but fees will be averaged over the last 3 years), or
- b) if, on or after 1st April 2008 and within 10 years of leaving, a member (voluntarily or compulsorily) has restricted pay, reduces their grade or moves to a position with less responsibility, the employee can choose to use the average of any 3 consecutive years pay in the last 10 years ending on a 31st March (plus RPI from the end of the 3 year period).

We believe that CLG intend to provide that, for the purposes of (b) above, only pay received from the current employer (and not from any previous scheme employer) can be taken into account. We believe that CLG also intend to provide that a member will be able to utilise the provisions in (a) and (b) above even where the period used cuts back into a period with the employer for which benefits are already being drawn following flexible retirement with the employer.

Employers will need to ensure that payroll data is kept for 10 years in respect of cases falling into category (b).

No old style certificates of protection can be issued in respect of pay drops / restrictions in pay that are outside of the employee's control and that occur on or after 1st April 2008 (but a certificate can be issued post April 2008 in respect of any such pay drops / restrictions in pay that occurred pre 1st April 2008). Employers will, of course, need to ensure that payroll data for cases where certificates have been issued is kept for a minimum of 13 years.

Earliest Retirement Age

Employers should check their discretionary policies on compensation for redundancy / efficiency, their policy on the early release of benefits before age 60, and their policy on flexible retirement, and amend the policies if necessary to cater for the increase in the minimum retirement age. The minimum retirement age increases from 50 to 55 for new scheme members from 1st April 2008 and increases from 50 to 55 from 1st April 2010 for existing scheme members (i.e. for those who are members of the scheme on 31st March 2008). Thus, any references in the aforementioned policies to age 50 will need to be appropriately amended. A copy of any revised policies must be sent to the Pensions Section.

Flexible retirement

Under the new scheme, where an employer agrees to a reduction in hours or grade for a scheme member aged 55 or over (or, for existing members, 50 or over until 31st March 2010), the employer can agree to the release of all or,

and this is the new provision, some of the member's accrued pension benefits. Employers will therefore need to amend their flexible retirement policy to reflect their stance on whether to release part, rather than all, of the accrued benefits. A copy of the revised flexible retirement policy must be sent to the Pensions Section.

Ill-Health Retirement

Employers will need to revise their procedures and forms for ill-health retirements that will happen on or after 1st April 2008, taking into account the new tests for eligibility (a big problem at the moment given that we do not yet know what the bottom tier will look like and do not presently have the statutory guidance providing definitions enabling the medical adviser to determine whether or not a person falls into the middle or bottom tier).

We understand that requests were made in response to the CLG consultation on the bottom tier ill health provisions asking for transitional arrangements to apply where individual ill health retirement processes are currently underway and we also understand that these representations are being seriously considered by the Minister. In the meantime, however, there are a limited number of options. Employers could amend their ill health form to ask the independent registered medical practitioner who is qualified in occupational health medicine:

- whether the employee is permanently incapable of discharging efficiently the duties of their employment by reason of ill health or infirmity of mind or body until, at the earliest, age 65, and
- whether the employee would meet the criteria for the top tier (i.e. has no reasonable prospect of being capable of obtaining gainful employment before age 65) and
- if the person doesn't meet the criteria for the top tier, seek an opinion as to the timescale within which the medical practitioner believes the person would be capable of undertaking gainful employment.

If the medical adviser would be prepared to give an opinion on this last point, the employer will be able to subsequently allocate the employee to the middle or bottom tier once CLG has provided a definition of a "reasonable period of time" (as whether or not an employee is capable of undertaking other gainful employment within a reasonable period of time after leaving will be the determining factor in whether a person will fall into the middle or bottom tier).

Alternatively, employers could amend their ill health form to ask the first two questions above only and then re-refer the case back to the medical adviser when CLG have issued a definition of a "reasonable period of time".

Until matters are clarified by CLG, employers will not be in a position to confirm to individual employees which tier they may fall into if the termination date falls on or after 1st April 2008. This will, for some employees, clearly be a worrying time. If the individual is likely to fall into the top or middle tier and is aged 45 or over at 31st March 2008, the fact that their termination date falls after 31st March 2008 should not be of concern as those employees will have protection (such that the benefit they get cannot be less than they would have got under the current scheme). If, however, the person is under age 45 at 31st March 2008 or could fall into the bottom tier, they could be worse off if their employment is terminated after 31st March 2008 compared to the benefit they would have received under the current scheme. If this is likely to be the case, the employer could, if they wished, protect the interests of the employee by terminating the contract at 31st March 2008 (thereby ensuring the current ill health provisions will apply) and pay the balance of the notice period as pay in lieu. Would taking such an action to protect an employee be an appropriate use of public money? Well, it can be argued that the employee is able to protect their own interests by resigning on 31st March 2008. Ill health benefits would then be payable under the current scheme because the current scheme regulations do not require there to have been a dismissal for ill health benefits to be paid - merely that the reason for leaving was permanent ill health. Of course, if the person resigns, the balance of the notice period would not then be paid as pay in lieu of notice, and so there would be a saving for the Council compared to if the Council brought the termination date forward to 31st March 2008 and paid pay in lieu of notice.

Lastly, it should be noted that, in the **current** version of the Benefits Regulations, the ill health enhancement for part time employees falling into the top or middle tier is based on the hours they are working at the date of leaving (unlike the current scheme that based the enhancement on average hours over their period of scheme membership or even granted full time enhancement if the person had membership of 13 1/3rd or more years in which they had been full time). So, under the current version of the Benefits Regulations, an employee who drops their hours prior to ill health retirement, perhaps as part of a trial period to see if they are capable of remaining in work, could lose out unless the employer increases their hours back up to the previous level just before retirement. We understand, however, that as a result of representations CLG are considering whether to amend the Regulations to provide that if a person reduces their hours as part of an agreed trial period, the enhancement will be based on the hours worked prior to the reduction in hours.

Ill-health release of deferred benefits

It will be necessary to revise procedures and forms for any request for the release of deferred benefits on ill-health grounds where the deferred member had been an active member of the 2008 scheme. The criteria for release under the current scheme are that the person has to be certified as being permanently incapable of being able to perform the duties of their former employment by reason of ill health or infirmity of mind or body (until

at least age 65). The criteria for early release of a deferred benefit awarded under the new scheme will be different. The LGPC Secretariat understands that to obtain early release, the deferred member must be certified as being permanently incapable of performing the duties of their former employment by reason of ill health or infirmity of mind or body (until at least age 65) and be certified as being unlikely to be capable of gainful employment within a reasonable period of time from the date of application for early payment.

Nominated Cohabiting Partners

The new scheme provides that anyone who has contributed to the new scheme can complete a form to nominate a cohabiting partner, of either the opposite or same sex, to receive a survivor's pension, subject to meeting the relevant criteria laid down in the scheme i.e. that all of the following conditions have applied for a continuous period of at least 2 years on the date both the scheme member and their nominated cohabiting partner sign the nomination form:

- both the scheme member and their nominated co-habiting partner are, and have been, free to marry each other or enter into a civil partnership with each other, and
- the scheme member and their nominated co-habiting partner have been living together as if they were husband and wife, or civil partners, and
- neither the scheme member or their nominated co-habiting partner have been living with someone else as if they were husband and wife or civil partners, and
- either the nominated co-habiting partner is financially dependent on the scheme member or they are financially interdependent on each other.

On the scheme member's death, a survivor's pension would be paid to the nominated co-habiting partner if:

- the nomination has effect⁹ at the date of the scheme member's death, and
- the nominated cohabiting partner satisfies the administering authority that the above conditions had also been met for a continuous period of at least 2 years immediately prior to the scheme member's death.

⁹ A nomination ceases to have effect if-

- (a) either the scheme member or their nominated partner gives written notice to cancel the nomination, or
- (b) the scheme member makes a subsequent valid nomination in favour of a new co-habiting partner, or
- (c) either the scheme member or their nominated partner marries, forms a civil partnership or lives with a third person as if they were husband and wife or as if they were civil partners, or
- (d) the nominated partner predeceases the scheme member.

It is important that scheme members wishing to nominate a cohabiting partner complete and return a nomination form as the Pension Scheme cannot pay a pension to a cohabiting partner if the administering authority does not hold a valid nomination form. Members should therefore be made aware of this new provision by the Pension Fund administering authority and, as appropriate, issued with a nomination form. The LGPC Secretariat has devised and issued a standard nomination form to Pension Sections for this purpose.

It is important to note that the facility to nominate a cohabiting partner only applies to scheme members who have contributed to the scheme on or after 1st April 2008. Members who left before then with a deferred benefit or payment of a pension cannot nominate a cohabiting partner.

Additional Contributions

It is important that employees are informed that, if they want to buy added years under the current scheme arrangements, they must elect to do so before 1st April 2008 (even though contributions do not start until their birthday which may fall on or after 1st April 2008). No new elections can be made after 31st March 2008. Ensure that any stocks of leaflets / application forms for purchasing added years are replaced with documentation for the new facility to pay Additional Regular Contributions (ARCs). From April 2008 members will be able to buy up to £5,000 of additional pension (in multiples of £250) by paying additional contributions. They will have the choice of whether to purchase additional pension just for themselves, or with an inbuilt prospective surviving partner's pension. Members will still be able to pay AVCs and employers will still be able to contribute to a shared cost AVC.

Employer Option to Increase Benefits

Employers will, as now, be able to augment membership for an active scheme member (i.e. grant up to 10 extra years of scheme membership) but the restriction which limited the award to no more than the shortfall to age 65 is removed as from 1st April 2008. Employers who have an augmentation policy will need to remove any reference to an age 65 restriction and send a copy of the revised policy to the Pensions Section.

It will also be necessary for employers to decide a policy on the new discretion which employers will have to award any active scheme member an additional pension of up to £5,000 per annum. When considering the policy, employers will need to have regard to the age discrimination legislation. Employers must send a copy of their policy to the Pensions Section.

Deferring drawing a pension

As now, a deferred beneficiary in the new scheme will not be required to draw their deferred benefit at age 65 but will be allowed to defer drawing it,

if they so wish, until some time after age 65 (but the benefit must be drawn by age 75).

However, unlike in the current scheme, a member retiring at or after age 65 will also have the option to defer drawing their benefit (i.e. they will not be compelled to draw their pension at the point of leaving, but must draw it by age 75). It will therefore be necessary to update any standard forms or letters that are used which currently refer to the immediate payment of benefits on retirement at or after age 65 in order to reflect the change which has been inserted into the new scheme provisions.

Actuarial increase beyond 65

Under the current scheme, employees who carry on in work beyond age 65:

- continue to accrue membership in the scheme during the continuing employment (up to, at the latest, the day before age 75)
- are given an actuarial increase on the benefits they had accrued in respect of membership in the scheme to age 65

This will continue to be the case under the new scheme but with the addition that the member will also be given an actuarial increase on the benefits they accrue in respect of membership of the scheme after age 65. This may be a useful additional facility (perhaps coupled to the flexible retirement options) when seeking to encourage employees to remain in the workforce for longer, thereby retaining valuable skills and knowledge.

What's gone or disappeared for those who are subject to the new look scheme?

- Commutation for exceptional ill health cases – gone
- Minimum 10 years membership guarantee for children's pensions – gone [but for deaths in service, children's pensions will be calculated by reference to the deceased scheme member's full prospective membership to age 65]
- No new certificates of protection of pension benefits for pay reductions or restrictions occurring after 31st March 2008 [but see best of 3 years in the last 10 years option mentioned earlier in this Circular]
- No lump sum death grant for pensioners who die aged 75+
- 3/80ths underpin for the death in service lump sum - gone
- Benefit at 65 with 1 days membership – gone [now need a minimum of 3 months membership or have had a transfer in from another pension arrangement]

- Short term (higher rate) survivor pensions – gone [the long term lower rate is now paid straight away]
- Need to have a minimum of 3 months membership for long-term spouse's or civil partner's pension – gone [long term survivors pension following death in service now payable after just 1 days membership if member dies in service]
- Right to a refund of contributions if leaving with less than 3 months membership and have not had a transfer in of other pension rights but do have a Deferred LGPS Benefit or an LGPS pension in payment – gone [although, to all intents and purposes, this change has been in effect since April 2006 due to HMRC rules]
- Calculation method for interfund adjustments – changed [interfund adjustments are to be calculated on a modified cash equivalent basis rather than the simple formula currently being used and we believe this new approach will be applied to interfund adjustments paid after 31st March 2008]
- The 1997 Regulations – gone, but not gone [as they still apply to pre 1st April 2008 leavers and certain parts still apply to other members post 31st March 2008]

Governance

27. Administering authorities are required by regulation 73A of the LGPS Regulations 1997 to publish a Governance Compliance Statement on or before 1st March 2008. The Statement must show the extent to which any delegation (or the absence of a delegation) of their function, or part of their function, in relation to maintaining a pension fund complies with guidance issued by the Secretary of State. That guidance has not yet been issued. We understand that a draft of the guidance is to be issued shortly but the final version may not be issued in time for administering authorities to digest it before having to publish their Statement. As a result, we understand that the CLG is likely to give an extension beyond the 1st March compliance deadline.

Consultation on admitted body status provisions

28. On 18th January 2008 CLG issued a consultation document on the admitted body status (ABS) provisions contained in the LGPS. The consultation document examines specific concerns raised about the implementation of ABS provisions and sets out three possible broad approaches which might be developed to address those concerns.
29. CLG is seeking views on the approaches set out in the consultation document and wants to encourage respondents to provide additional ideas on potential ways forward to help ensure the provisions meet the needs and

support the interests of local authorities, contractors, employees and taxpayers.

30. The consultation document is available at www.communities.gov.uk/localgovernment/personnelandworkforce/localgovernmentpensions/abs/reviewabs/ and responses should be sent to Darren.kristiansen@communities.gsi.gov.uk by Thursday 10th April 2008.
31. The LGPC's Officer Advisory Group and the full LGPC will be considering the consultation paper at their meetings on 2nd April and 10th April, respectively. A copy of the LGPC response will be placed on the pension's part of the LGE website.

Actions for administering authorities

32. Administering authorities in England and Wales may wish copy this Circular to employers in their Fund (other than to Local Authorities to whom this Circular has already been sent direct) or bring the Circular to the attention of employers by directing them to the Circular on the LGE website at: <http://www.lge.gov.uk/lge/core/page.do?pagelId=58678>
33. As administering authorities will be aware, scheme members must be made aware of the material changes to the pension scheme that may affect them. Regulation 4 of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 [SI 1996/1655] requires the Pension Fund administering authority to notify all scheme members and beneficiaries (except those deferred members and pension credit members for whom no current address is held) of any changes to the scheme rules which may materially affect them. This should be done either before the change takes effect or, in any event, not later than 3 months after the effective date of the change. The notification must be accompanied by a written statement that further information about the scheme is available, giving the address to which enquiries should be sent.

Terry Edwards
Head of Pensions
7th February 2008



A New Look Local Government Pension Scheme from 1st April 2008

As part of a general review of public sector pension schemes, the Government has introduced changes to the Local Government Pension Scheme (LGPS) for employees in England and Wales from 1st April 2008.

More of us living longer and so receiving our pensions for longer, which means the cost of providing pensions has risen. Also, the nature of the workforce has changed, with more scheme members working part-time and looking to achieve a better work-life balance.

As a result, the LGPS has been updated to reflect the work patterns and needs of a modern workforce, and to ensure that the New Look LGPS is affordable whilst still providing an excellent level of pension benefits.

If you're already paying into the LGPS on 31st March 2008 and you continue to have a contract of employment on 1st April you are automatically transferred to the New Scheme.

Let's take a look at how the main changes affect you if you are an existing member being moved over to the New Look LGPS.

➤ **New Contribution Rates**

In the new scheme, instead of most people paying a standard contribution rate of 6%, there are different contribution rates for different pay bands. These new rates have been designed to give more equality between the cost and benefits of scheme membership.

The new rates are between 5.5 and 7.5% of your pensionable pay. The rate you pay depends on which pay band you fall into.

If you work part-time, your rate will be based on the whole time pay rate for your job, although you will only pay contributions on the pay you actually earn.

Here are the pay bands from April 2008:

If your Whole Time Equivalent pay rate is:	Your contribution rate will be:
Up to £12,000	5.5%
More than £12,000 and up to £14,000	5.8%
More than £14,000 and up to £18,000	5.9%
More than £18,000 and up to £30,000	6.5%
More than £30,000 and up to £40,000	6.8%
More than £40,000 and up to £75,000	7.2%
More than £75,000	7.5%

The pay bands will be adjusted each April in line with the cost of living.

Let's take a look at someone who works full time at a pay rate of £20,000.
They'll pay 6.5% of their pay - that's around £108 a month - in contributions.
If they were working half time, they'd still pay the 6.5% rate. That's because the whole-time rate for their job is still £20,000, but their contributions would be based on their part-time earnings, so they'd have £54 deducted.

If you pay tax and National Insurance, you'll get tax relief on your contributions and pay a lower rate of National Insurance, so the actual cost to you is less.

If you're currently paying a protected rate of 5%, the rate you pay will be increased on a phased basis from 1st April 2008, bringing it into line with all other Scheme members by 1st April 2011.

If you are currently paying a protected rate of 5%

From:	Your contribution rate will be:
1 st April 2008	5.25%
1 st April 2009	5.5%
1 st April 2010	6.5% or (if lower) the relevant rate from the pay band table
1 st April 2011	the relevant rate from the pay band table

➤ **How are my benefits worked out?**

The New LGPS is still a final salary scheme. This means that your benefits are normally based on your final year's pay and the number of years you have been a member of the Scheme.

How your benefits are worked out when you retire changes from 1st April 2008.

For each year you have built up in the scheme to 31st March 2008, you will receive a **pension of 1/80th** of your final year's pay **plus an automatic tax-free lump sum** of 3 times your pension.

For each year you build up from April 2008 your **pension will be at the increased rate of 1/60th** of your final year's pay. There will be no automatic lump sum for membership built up after March 2008 but you do have the option to get a tax free lump sum in exchange for some of your pension.

Let's look at someone who has 8 years membership up to 31st March 2008 and 24 years membership after then when they retire at age 65.

Their final year's pensionable pay on retirement is £20,000.

Benefits based on their 8 years membership up to 31st March 2008 will be

Annual Pension:

$$8/80 \times £20,000 = \text{£ } 2,000$$

Plus an automatic tax free lump sum

$$3 \times 8/80 \times £20,000 = \text{£ } 6,000$$

Benefits based on their 24 years membership from 1st April 2008 will be

Annual Pension

$$24/60 \times £20,000 = \text{£ } 8,000$$

**This gives total benefits of:
Annual Pension**

$$£2,000 \text{ plus } £8,000 = \text{£ } 10,000$$

Lump Sum = £6,000

But remember, it's possible to exchange some pension for extra tax-free cash.

Up to 25% of the overall value of the pension benefits can be taken as a lump sum, with £12 lump sum for each £1 of annual pension given up.

To summarise, any pension built up before April 2008 is still calculated at the **1/80th rate** with a lump sum of 3 times pension. Only pension built up from 1st April 2008 is calculated at the **better 1/60th rate** and there is an option to take extra lump sum in exchange for some pension.

➤ **When can I retire?**

The scheme's normal pension age remains at 65. If you continue working beyond age 65, you can stay in the scheme but you must draw your benefits by age 75. Benefits drawn after 65 will be increased.

To be entitled to retirement benefits you must have been a member of the LGPS for at least 3 months or have transferred in other pension rights.

Early Retirement

You can still choose to retire and draw your benefits from age 60, although they may be reduced for early payment.

The earliest age you can ask for early retirement with your employer's consent increases from 50 to 55 from 1st April 2008 for new members, but this change won't apply until 1st April 2010 if you are an existing member being moved over to the new scheme.

Redundancy or Efficiency Retirement

If you're made redundant or are retired on business efficiency grounds, the earliest age immediate benefits are paid also increases from 50 to 55. Again, this change occurs from 1st April 2008 for new members but won't apply until 1st April 2010 if you are an existing member being moved over to the new scheme.

Flexible Retirement

Under the current scheme, if you reduce your hours or grade and your employer agrees, you can draw **all** of the benefits you have built up at that point in time. You can still draw your pay on the reduced hours or grade, and even continue paying into the scheme, building up further benefits.

Under the new scheme, if you take flexible retirement, instead of having to draw **all** of the benefits you have built up prior to taking flexible retirement, you can, if your employer agrees, draw **some or all** of your benefits.

If you take flexible retirement before 65 your benefits may be reduced for early payment.

The earliest age for flexible retirement increases from age 50 to 55 from 1st April 2008 for new members, and from 1st April 2010 if you are an existing member being moved over to the new scheme.

Ill health retirement

The new scheme introduces better targeted benefits if you are unable to work because of serious illness.

If you have to leave work at any age due to permanent ill-health the new scheme provides a tiered ill-health retirement package. This gives graded levels of benefit based on how likely you are to be capable of gainful employment after you leave.

If you have at least 2 years in the pension scheme and you have no reasonable prospect of being capable of gainful employment before age 65, ill health benefits in the new scheme are based on your membership built up to date of leaving **plus all** your prospective membership from leaving to age 65. In other words, your pension will be based on the membership you would have had if you had stayed in the Scheme until age 65.

If you have at least 2 years in the pension scheme and you are unlikely to be capable of gainful employment within a reasonable period of leaving, but you may be capable of gainful employment at some date in the future before age 65, ill health benefits in the new scheme are based on your membership built up to leaving **plus 25%** of your prospective membership from leaving to age 65.

There are protections for existing Scheme members who will be aged 45 or over on 31st March 2008, to ensure they receive no less than they would have done under the current Scheme.

The Government is currently consulting on the nature of the ill-health benefit payable if you leave because you are permanently unable to do your LGPS job and have less than 2 years membership in the Scheme or if you leave because you are permanently unable to do your LGPS job but could immediately or within a reasonable period undertake other gainful employment.

➤ **Improved death benefits**

Provided you pay into the LGPS on or after 1st April 2008, there are improvements to the Scheme's benefits if you die.

The death in-service tax-free lump sum, known as a "death grant", increases from 2 to 3 times your annual pensionable pay. If you're part-time, the benefit is three times your actual part-time pay.

If you leave with deferred benefits and die before receiving them the death grant increases from 3 to 5 times your deferred annual pension; and for the death of a pensioner, it increases from 5 to 10 times the annual pension being paid, less the amount of pension already paid out.

Remember, you can say who you would like any death grant paid to by completing a form available from your Pension Fund. It's important you keep this form up to date but, whilst taking your wishes into account, your Fund will make the final decision on whom the death grant is paid to.

Survivors' Pensions

The LGPS already provides a pension for your husband, wife, or registered civil partner and for eligible children on your death and under the new scheme you can now nominate a same or opposite sex co-habiting partner to receive a survivor's pension.

To nominate a co-habiting partner your relationship has to meet certain conditions laid down by the LGPS. **If you wish to make a nomination [please complete and return the attached form] or [you can obtain a form from]**

The survivor's pension for a Scheme member's husband or wife will be based, as now, on 1/160th of the Scheme member's final year's pay for each year of membership. Survivor pensions for civil partners and nominated co-habiting partners will be calculated on the same basis but on the Scheme member's post 5th April 1988 membership only. If you die in service, the membership used in the calculation of all survivor benefits will be the membership you have in the Scheme, as described above, plus the prospective membership between the date of death and age 65.

The amount of pension to be paid to eligible children depends on the number of eligible children and whether or not a spouse's, civil partner's or nominated co-habiting partner's pension is payable.

➤ Increasing your benefits

Under the New Scheme you can pay more in contributions to buy up to £5,000 of extra annual pension in multiples of £250. You can provide extra pension for yourself and, if you wish, for extra survivor's pension on your death.

Buying extra years of membership will no longer be available in the new scheme, so if you want to buy extra years of membership you will need to make an election to do so to your Pension Fund administering authority before 1st April 2008. [Further information on this can be obtained from] If you're already paying more to buy extra years, you'll continue to pay for them and receive extra benefits on the same basis that you had agreed to buy them.

You can still pay additional voluntary contributions – AVCs – to increase your benefits.

In the new scheme, your employer can also augment your membership by up to 10 years; grant you extra annual pension of up to £5,000; and contribute, along with yourself, to a Shared Cost AVC. These are all discretions that the employer can make use of if they wish.

➤ Reductions in pay

Your benefits in the new scheme will normally be calculated on your final year's pensionable pay, or on one of the two previous years' pay if better. If you downgrade in your last 10 years or your pay is restricted in that period you have the option to have your benefits based on the average of any 3 consecutive years in the last 10 years (ending on a 31st March).

➤ And finally....

One of the main attractions of the LGPS is that your employer pays a large part of the cost of providing the benefits.

It is however important that overall the scheme remains affordable, so increases or decreases in the cost of providing the scheme may, in future, need to be shared between members and employers. This will be in accordance with government guidance.

➤ More information

We hope you find this information helpful. Further information is available from *<insert contact details of pension fund administrator>* and on www.lgps.org.uk

This leaflet is a brief guide on the changes to the LGPS in England and Wales from 1st April 2008. It is for general use only and does not cover every personal circumstance. It does not cover councillor members of the LGPS. In the event of any dispute as to eligibility for membership of, or benefits due under, the LGPS the appropriate legislation will prevail. This leaflet does not confer any contractual or statutory rights and is provided for information purposes only.

SCHEME EMPLOYERS

PART 1

- 1.** The Commission for Local Administration in England.
- 2.** In England, a county council, a district council, a London borough council or the Common Council of the City of London.
- 3.** In Wales, a county council or a county borough council.
- 4.** A joint board, body or committee appointed under any Act or statutory order or statutory scheme, of which all the constituent authorities are councils of a description in paragraph 2 or 3 or a combination of such councils.
- 5.** A fire and rescue authority within the meaning of the Fire and Rescue Services Act 2004.
- 6.** A police authority within the meaning of the Police Act 1996.
- 7.** A probation trust established under section 5 of the Offender Management Act 2007 or a National Probation Service local board
- 8.** The Chichester Harbour Conservancy.
- 9.** The Lee Valley Regional Park Authority.
- 10.** A passenger transport authority.
- 11.** The Broads Authority.
- 12.** A further education corporation.
- 13.** A higher education corporation.
- 14.** The London Pensions Fund Authority.
- 15.** The South Yorkshire Pensions Authority.
- 16.** The Environment Agency.
- 17.** A National Park Authority established under Part 3 of the Environment Act 1995.
- 18.** An Education Action Forum within the meaning of section 11 of the School Standards and Framework Act 1998.
- 19.** The National College for School Leadership.
- 20.** The Standards Board for England.
- 21.** An Academy within the meaning of section 482 of the Education Act 1996 or by virtue of section 67 of the Education Act 2002 (conversion of city academies into Academies).
- 22.** A body set up by a local housing authority in exercise of powers under section 2 of the Local Government Act 2000 as a housing management company to exercise management functions of the authority under an agreement approved by the Secretary of State under section 27 of the Housing Act 1985.
- 23.** The Valuation Tribunal Service for England established under section 105 of the Local Government Act 2003 and the Valuation Tribunal Service for Wales established under regulation 5 of the Valuation Tribunals (Wales) Regulations 2005.

24. A conservation board established under section 86 of the Countryside and Rights of Way Act 2000.
25. Firebuy Limited established under Section 29 of the Fire and Rescue Services Act 2004.

PART 2

1. The Board of Governors of the Museum of London;
2. A body (other than a body listed in Part 1 of this Schedule) which is—
 - (a) a precepting authority (as defined in section 69 of the Local Government Finance Act 1992),
 - (b) a levying body within the meaning of section 74 of the Local Government Finance Act 1988 (levies), or
 - (c) a body to which section 75 of that Act (special levies) applies.
3. A passenger transport executive.
4. A designated institution which immediately before designation was assisted or maintained by a local education authority.
5. A company under the control of a body listed in Part 1 of this Schedule where “under the control” has the same meaning as in section 68 or, as the case may be, section 73 of the Local Government and Housing Act 1989 (except that any direction given by the Secretary of State must be disregarded, and any references to a local authority treated as references to such a body).
6. The Public Services Ombudsman for Wales.
7. The Serious Organised Crime Agency.
8. Transport for London.
9. The London Development Agency.
10. The Metropolitan Police Authority.
11. The London Transport Users’ Committee.
12. The Cultural Strategy Group for London.
13. The Children and Family Court Advisory and Support Service.
14. An urban development corporation.

SAMPLE NOTIFICATION LETTER

Dear

Local Government Pension Scheme

As part of a general review of public sector pension schemes, the Government has introduced changes to the Local Government Pension Scheme (LGPS) for employees in England and Wales from 1st April 2008.

If you're paying into the LGPS on 31st March 2008 and you continue to have a contract of employment on 1st April you will automatically transfer to the new scheme.

In the new scheme, instead of most people paying a standard contribution rate of 6% of their pensionable pay, there are different contribution rates for different pay bands. These new rates have been designed to give more equality between the cost and benefits of scheme membership.

The new rates are between 5.5 and 7.5% of your pensionable pay. The rate you pay depends on which pay band you fall into.

If you work part-time, your rate will be based on the whole time pay rate for your job, although you will only pay contributions on the pay you actually earn.

Here are the pay bands from April 2008:

If your Whole Time Equivalent pay rate is:	Your contribution rate will be:
Up to £12,000	5.5%
More than £12,000 and up to £14,000	5.8%
More than £14,000 and up to £18,000	5.9%
More than £18,000 and up to £30,000	6.5%
More than £30,000 and up to £40,000	6.8%
More than £40,000 and up to £75,000	7.2%
More than £75,000	7.5%

The pay bands will be adjusted each April in line with the cost of living.

Let's take a look at someone who works full time at a pay rate of £20,000.

They'll pay 6.5% of their pay - that's around £108 a month - in contributions.

If they were working half time, they'd still pay the 6.5% rate. That's because the whole-time rate for their job is still £20,000, but their contributions would be based on their part-time earnings, so they'd have £54 deducted.

If you pay tax and National Insurance, you get tax relief on your contributions and pay a lower rate of National Insurance, so the actual cost to you is less.

If you're currently paying a protected rate of 5%, the rate you pay will be increased on a phased basis from 1st April 2008, bringing it into line with all other Scheme members by 1st April 2011.

If you are currently paying a protected rate of 5%

From:	Your contribution rate will be:
1 st April 2008	5.25%
1 st April 2009	5.5%
1 st April 2010	6.5% or (if lower) the relevant rate from the pay band table
1 st April 2011	the relevant rate from the pay band table.

The contribution rate you will pay from April 2008 will be [enter %]. This has been determined by reference to

[employer to insert a statement, for example:

- your whole-time equivalent rate of pensionable pay
- Or
- your whole-time equivalent rate of pensionable pay at / from
- Or
- your whole-time equivalent rate of pensionable pay of £xxxx
- Or
- your whole-time equivalent rate of pensionable pay of £xxxx at / from

[Employers might also wish to include an explanation of how they have determined the whole-time equivalent rate of pensionable pay for employees who receive pensionable pay other than basic annual salary]

This is a decision we are required to make under the rules of the pension scheme. It is not possible for you to continue paying your current standard contribution rate of 6% (or 5%).

If you would like a further explanation of how we have determined your contribution band please contact

.....
.....

However, if you believe that, based on your whole-time equivalent pay rate, we have allocated you to the wrong contribution band you have the right of appeal under the pension scheme's Internal Dispute Resolution Procedure. A leaflet explaining the appeal process is attached.

If your whole-time equivalent pay rate changes in the future we will need to consider whether, due to that change, you should be reallocated to a different contribution band. Our current policy is to make any required change

[employer to insert appropriate wording e.g.

- only from the April following the change in your whole-time equivalent rate of pay
- only from [some other specified month] following the change in your whole-time equivalent rate of pay
- from the time when your whole-time equivalent rate of pay changes for any reason
- only from the time when your whole-time equivalent rate of pay changes as a result of a change in your contract of employment]

Please note that if you are currently paying any additional contributions (for example, to purchase extra years of scheme membership) or are currently paying Additional Voluntary Contributions (AVCs) these contributions will continue to be collected and are not affected by the change to the standard pension contribution rate.

Yours sincerely

The Local Government Pension Scheme – Appeals Procedure

Introduction

This guide is to help you understand the procedures for settling any disagreement or complaint you may have about decisions your employer or the Authority that administers the Local Government Pension Scheme (the Scheme) have made about you or your benefits under the Scheme. XXX Authority administers the Scheme and throughout this guide is referred to as the Administering Authority. The address of the Administering Authority is

.....

Decisions

From the day a person starts a job with an employer, to the day benefits or dependant's benefits are paid, the employer and the Administering Authority have to make decisions under the Scheme rules that affect you.

What to do when you are notified of a decision

When you (this includes dependants) are notified of a decision you should check, as far as you can, to see if you think it is based on the correct details and that you agree with it.

What to do if you are unhappy with a decision

It is normally a good idea to make an informal enquiry in the first place. Most problems can be resolved in this way. They are often caused by misunderstandings or wrong information, which can be explained or put right quickly and easily by the employer or the Administering Authority. So we suggest that you either telephone the number on the letter or form which your employer or the Administering Authority sent to you notifying you of their decision.

If, having done so, you remain unhappy with the decision (or the lack of one) then, under Stage 1 of the Internal Dispute Resolution Procedure, you have the right to have the decision looked at afresh by a person nominated by the body who took the decision against which you wish to appeal. In this guide we refer to that person as the "nominated person". The post title and address of the "nominated person" are:.....

.....

If you are not happy with the "nominated person's" decision at Stage 1 you can then appeal to the Administering Authority to have your case reviewed afresh at Stage 2 of the Internal Dispute Resolution Procedure. The review would be undertaken by a person not involved in the Stage 1 decision. At either stage you will be able to contact the Occupational Pensions Advisory Service, 11 Belgrave Road, London, SW1V 1RB, Telephone 0845 601 2923 who will be able to assist you with any difficulty that remains unresolved. If you are unhappy following the Administering Authority's Stage 2 decision, you can then take your case to the Pensions Ombudsman.

A full guide to the dispute resolution procedure is available by writing to

.....

The full guide provides detailed information on the dispute procedure and contains the relevant forms to use.

There is no charge made for investigating any complaint at any stage under the dispute rules – the only expenses you will have to meet are those of your own (or your representative's) time, stationery and postage.

Are there any time limits I should be aware of?

Yes. If you wish to use the dispute rules you must make your application to the “nominated person” within 6 months after you were notified of the decision you are complaining about. If your complaint is that a decision has not been made, you must make your application within 6 months of the time the decision ought to have been made. You should not, therefore, leave things too long before making your application to the “nominated person”. That person can extend the 6 months time limit for a reasonable period if he / she considers that it is reasonable to do so.

The “nominated person” should give you a decision within 2 months of receiving your written complaint or write to you at the end of 2 months telling you the reasons for a delay in reaching a decision and giving you the date when he / she expects to be able to let you know the outcome.

If you get neither a letter giving the “nominated person’s” decision nor a letter giving the reason for a delay within 3 months of the date you made the application, or if you don’t receive the “nominated person’s” decision within 1 month of the date he / she said he / she expected to give you a decision, you can apply directly to the Administering Authority without waiting any longer (see below).

What power does the “nominated person’s” decision have?

The “nominated person’s” decision is binding on you, the employer and/or the Administering Authority unless you disagree with the Stage 1 decision and make an appeal to the Administering Authority at Stage 2 of the process. This means that if the “nominated person’s” decision is contrary to the decision originally taken by your employer or by the Administering Authority they must either deal with your case on the basis of the decision made by the “nominated person” or, where the decision relates to the exercise of a discretion by the employer or the Administering Authority, the employer or Administering Authority will be required to reconsider its decision.

Appeal to the Administering Authority (Stage 2 of the process)

If you are unhappy with the “nominated person’s” decision, you can ask the Administering Authority to take a further look at the facts of the case. Such a request must be made within 6 months of the date of the “nominated person’s” decision letter. If the “nominated person” has failed to make a decision and has not issued you with an interim reply within 3 months of the date of your appeal application, you then have 6 months from the end of the initial 3 month period within which to lodge an appeal with the Administering Authority. If the “nominated person” has issued you with an interim reply but, does not issue a determination within 1 month of the date he / she said he/she would, you then have 6 months after the end of that 1 month period within which to lodge an appeal with the Administering Authority.

Distribution sheet

Chief executives of local authorities
Pension managers (internal) of administering authorities
Pension managers (outsourced) and administering authority client managers
Officer advisory group
Local Government Pensions Committee
Trade unions
CLG
COSLA
SPPA
Regional Directors
Private clients

Website

Visit the LGE's website at: www.lge.gov.uk

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