

## Important information for members who hold a protection from the lifetime allowance tax charge

The lifetime allowance was introduced in 2006 and was reduced in 2012, 2014 and again in 2016. Each time the lifetime allowance reduced, if you had already planned your pension savings on the basis of the higher lifetime allowance, you have been able to protect your pension savings by applying to HMRC for a lifetime allowance protection. The lifetime allowance protections that can be held are:

- Primary protection
- Enhanced protection
- Fixed Protection 2012; Fixed Protection 2014; Fixed Protection 2016
- Individual Protection 2014; Individual Protection 2016

If your employer has reasonable grounds to believe that on your automatic or re-enrolment date you hold a lifetime allowance protection they can choose not to enrol you into the LGPS; this discretion does not apply to contractual enrolment i.e. when you are enrolled into the LGPS upon appointment.

### Losing enhanced and fixed protections

If you are being enrolled into the LGPS in England and Wales you should be aware that HMRC rules state that you will lose enhanced protection and any of the fixed protections if you start saving into a new pension 'arrangement' i.e. a different pension scheme. This means that:

**If you obtained enhanced protection or any of the fixed protections whilst you were a member of a different pension scheme** - you will lose that protection if you become a member of the LGPS in England and Wales. Please note, the LGPS in Scotland, Northern Ireland and Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to keep your protection it will be necessary to opt out of the LGPS in England and Wales within 3 months of being enrolled, this will ensure that you are treated as never having been a member of the scheme.

**If you obtained enhanced protection or any of the fixed protections whilst you were a member of the LGPS in England and Wales previously** - you will lose that protection if you again become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you

wish to keep your protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, this will ensure that you are treated as never having been a member of that scheme.

**If you obtained any of the fixed protections whilst you were a member of the LGPS in England and Wales previously** – it is not certain whether you will lose that protection at the point you again become a member of the LGPS in England and Wales if you **aggregate your benefits** and those aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings (CARE) benefits<sup>1</sup>.

The situation is uncertain because HMRC do not comment on individual cases and therefore will not confirm if they deem the new CARE scheme to be a different 'arrangement' under their rules or whether the final salary and CARE schemes should be treated as a single arrangement. However, the Department for Communities and Local Government (DCLG), the government department responsible for the LGPS, take the view that the relevant LGPS Regulations provide a single arrangement within a single scheme. If the DCLG view is correct and the new CARE scheme is not deemed to be a new pension 'arrangement' you will not lose your fixed protection on re-joining the LGPS in England and Wales but you will lose it at the point at which 'benefit accrual' occurs - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

Please note, if your aggregated benefits are only in respect of post 31 March 2014 CARE benefits you will not lose a fixed protection at the point you re-join the LGPS in England and Wales but you will lose it at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter).

If you wish to make certain that you retain your fixed protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

**If you obtained enhanced protection whilst you were a member of the LGPS in England and Wales previously** – it is not certain whether you will lose that protection at the point you again become a member of the LGPS in England and Wales if you **aggregate your benefits** and those aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings (CARE) benefits<sup>1</sup>.

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<sup>1</sup> The LGPS in England and Wales changed from a final salary pension scheme to a career average revalued earnings (CARE) scheme on 1 April 2014

a single arrangement. However, the Department for Communities and Local Government (DCLG), the government department responsible for the LGPS, take the view that the relevant LGPS Regulations provide a single arrangement within a single scheme.

If the DCLG view is correct and the new CARE scheme is not deemed to be a new pension 'arrangement' you will not lose your enhanced protection on re-joining the LGPS in England and Wales even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your benefits at 5 April 2006 as increased after then, in general terms, by the greater of 5% per annum, the increase in the cost of living or increases in your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so enhanced protection would be retained during that crystallisation. When the remaining benefits are crystallised, enhanced protection on those benefits would be lost. You would lose the enhanced protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your enhanced protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.