Agenda item 3 – Technical Group 9 March 2018

Consultation outcome on indexation and equalisation of GMP in public service pension schemes

In bulletin 151 we reported that on 28 November 2016, HM Treasury commenced a consultation that proposed options for the indexation of GMP elements for members of public service pension schemes who will reach SPA on and after 6 December 2018. The LGPC responded to this consultation 20 February 2017. On 22 January 2018, HMT published its response to the consultation.

A summary of this response is set out below:

"*This consultation was about how government should continue to meet its obligations to index (price protect) and equalise (make equal payments to men and women) the pension entitlements of a certain group of public servants with an occupational pension known as a GMP.*

This consultation received 62 responses, broadly in favour of the government's objectives in continuing to ensure the GMP continues to be indexed and equalised. The government has been implementing an "interim solution" between 6 April 2016 and 5 December 2018. The outcome of this consultation is that this solution will be extended for a further two years and four months. This will cover those members of public service schemes with a GMP who reach state Pension Age on or after 6 December 2018 and before 6 April 2021.

During this period, the government will investigate the possibility of an alternative long-term methodology, known as "conversion"".

Immediate impacts to noted and discussed by Technical Group

1) Ministerial Direction issued under section 59A Social Security Pensions Act (SSPA) 1975

In bulletin 163 we reported that we are currently in the process of producing a scheme administrator guide to assist administering authorities in how to apply increases to pensions in payment where the member holds a GMP. Publication of this guide is already reliant on a revision to the Ministerial Direction dated 6 April 2016, issued under section 59A of the SSPA 1975. In addition, a further amendment to the Ministerial Direction is now also required as a result of the outcome of the consultation published on 22 January 2018, which in turn will affect the work done so far on the scheme administrator guide.

The Ministerial Direction issued by HMT on 6 April 2016 does not fully address the initial 'interim solution' (i.e. in respect of those members who reached or will reach

SPa on and after 6 April 2016 and prior to 6 December 2018). This is because it did not cover those:

- Survivors **who are entitled** to inherited additional pension, whose SPa is on or after 6 April 2016 and prior to 6 December 2018:
  - Such cases should be AP>=GMP and not AP<GMP as paragraphs 7 and 8 of the extant Ministerial Direction prescribe.
- Survivors **who are not entitled** to inherited additional pension, whose SPa is after 5 December 2018:
  - Such cases should be AP<GMP and as the extant Ministerial Direction does not address these cases at all, the incorrect default position is AP>=GMP in accordance with section 59 SSPA 1975.

In addition to the changes needed to address the above bullet points, the Ministerial Direction also needs to provide for the outcome of the consultation published on 22 January 2018. We understand those changes to be in respect of:

- Pensioners (a pensioner is defined within the Ministerial Direction as a person to whom an official pension is payable so this can be a member or a survivor) **who are not entitled** to additional pension (inherited or otherwise), whose SPa is on or after 6 December 2018 and prior to 6 April 2021:
  - Such cases should be AP<GMP.
- Survivors **who are not entitled** to inherited additional pension, whose SPa is on or after 6 April 2021:
  - Such cases should be AP<GMP.

Once the revised Ministerial Direction has been issued (or we have written confirmation from HMT that they are in agreement with our understanding as set out above), we can amend the draft scheme administrator guide and publish accordingly.

2) Non-club cash equivalent transfer values (CETV) out/in and CETVs for the purpose of divorce, including pensioner CETVs

The outcome of the consultation on the indexation and equalisation of GMP in public service pension schemes will have an effect on the calculation of non-club cash equivalent transfer values (CETV) out/in and CETVs for the purpose of divorce.

Section 11 of the Secretary of State guidance title 'Individual incoming and outgoing transfers' dated 8 April 2016 and the 'Non Club GMP adjustment addendum' dated 19 April 2016 issued by Scottish Ministers, both contain adjustments to the CETV where the member has an entitlement to a GMP. These adjustments apply, in prescribed circumstances, where the members SPa falls between 6 April 2016 and 5 December 2018 inclusive (the existing 'interim period').

On 5 March 2018, SPPA issued an email to all Scottish administering authorities confirming that a new non-Club GMP adjustment addendum had been published on the [Actuarial Guidance](#) section of the SPPA LGPS webpage. This addendum applies to non-club CETVs out/in and CETVs for the purpose of divorce. The addendum is effective from 27 February 2018 in accordance with SPPA second email of 7 March 2018. As per the previous addendum, similar adjustments apply in prescribed circumstances where the members SPa falls between 6 December 2018 and 5 April 2021 inclusive.

We expect equivalent guidance to be issued by MHCLG on behalf of the Secretary of State in respect of the LGPS England & Wales.

Background

In order to understand the effect of the GMP addendums on non-club CETVs we need to generally understand how the GMP affects a non-club CETV out/in.

The text below addresses a non-club CETV which can apply to a member transferring out/in to/from a non-club registered pension scheme, or for a pensioner on divorce CETV in prescribed circumstances.

Non-club CETV out

This calculation is broken down into tranches of membership, for the LGPS:

- England & Wales this is: service before 1 April 2008 – service on and after 1 April 2008 and prior to 1 April 2014 – service on and after 1 April 2014
- Scotland this is: service before 1 April 2009 – service on and after 1 April 2009 and prior to 1 April 2015 – service on and after 1 April 2015

For the purpose of this discussion we do not need to break down the tranches of membership we simply need to understand the effect that the GMP has on the non-club CETV out.

Set out below is the basic principle of a non-club CETV out:

Pension x factor x adjustment (where appropriate)	A
Retirement grant x factor x adjustment (where appropriate)	B
Surviving partner's pension x factor	C
NI Modification x factor	D
GMP x factor	E

CETV Out = A + B + C – D - E

In the above formula the GMP is deducted from the gross CETV which has the effect of reducing the CETV paid by the administering authority. However, in certain circumstances the Post 88 and Post 88 GMP adjustment factors are negative factors. Therefore, rather than the reducing the CETV out as indicated in the above formula, the negative factor has the effect of increasing the CETV out.

Non club CETV in

Set out below is the basic principle of a non-club CETV in, for purchasing earned pension in the new LGPS CARE schemes:

CETV from transferring scheme	A
GMP x Factor	B
Sub: A **+ B** = C	
Factor for Gross Pension	D
Factor for surviving partner's pension	E
CETV in = C / (D + (49/160 x E))	

In the above formula the GMP is added to the CETV from the transferring scheme which has the effect of increasing the amount of earned pension purchased within the active member's pension account. However, in certain circumstances the Pre 88 and Post 88 GMP adjustment factors are negative factors. Therefore, rather than increasing the amount of earned pension purchased within the active member's pension account as indicated in the above formula, the negative factor has the effect of reducing this value.

Effect of the non-club GMP addendums

The GMP addendums (or in the case of the LGPS England & Wales it is section 11 of the guidance issued by the Secretary of State) only effect those members that have built up a GMP within the LGPS or who transfer a GMP into the LGPS.

The addendums instruct that the value of the GMP should be set to nil for the following cases:

2016 addendums

- Men with dates of birth between 1 April 1951 and 5 December 1953 inclusive
- Women with dates of birth between 6 April 1953 and 5 December 1953 inclusive who have already passed their critical retirement date and/ or normal retirement age at the relevant date

2018 addendums (LGPS Scotland issued, awaiting issue of LGPS E&W)

- Men with dates of birth between 6 December 1953 and 5 April 1955 inclusive
- Women with dates of birth between 6 December 1953 and 5 April 1955 inclusive who have already passed their critical retirement date and/ or normal retirement age at the relevant date

The addendums confirm that the following cases should sent to MHCLG for onward transmission to GAD if the member has a GMP:

2016 addendums

- Women with dates of birth between 6 April 1953 and 5 December 1953 inclusive whose critical retirement date is after their 60th birthday and who have not reached their critical retirement date and/ or normal retirement age at the relevant date.

  2018 addendums (LGPS Scotland issued, awaiting issue of LGPS E&W)

- Women with dates of birth between 6 December 1953 and 5 April 1955 inclusive whose critical retirement date is after their 60th birthday and who have not reached their critical retirement date and/ or normal retirement age at the relevant date.

Observation to be noted and discussed by Technical Group

By setting the value of the GMP to nil in the above cases this has an effect on the overall value of any CETV paid out of the LGPS, any earned pension purchased within the LGPS and any valuation of a pensioner on Divorce. Whether or not the value is increased or decreased is dependent on the factors that would have been used, but for the issue of these addendums.

The reason behind the GMP adjustment to the CETV was to account for the fact that the member had been contracted-out and had built up a GMP, accordingly the state would eventually pay additional pension (AP). This is no longer the case for individuals with a SPa on or after 6 April 2016. As a result, the GMP addendums address the fact that the interim solution (initially for the period from 6 April 2016 to 5 December 2018 inclusive) has been extended to 6 April 2021.

However, in the outcome of the consultation published by HMT on 22 January 2018, the response confirmed that during the period from 6 December 2018 and before the 6 April 2021 "*the government will investigate the possibility of an alternative long-term methodology, known as "conversion"".* This appears to indicate that the long term solution for those members that reach SPa on and after 6 April 2021 (whatever that may be) will involve the public service pension scheme becoming responsible for all pension increases on any GMP entitlement (because AP is no longer payable by the state in respect of those members who reach SPa on and after 6 April 2016). Thus, it would seem reasonable that any non-club CETV out/in or pensioner on Divorce CETV performed 'now', also reflect this eventuality.

Until such a time that this matter is considered further, a member who's SPa falls on or after 6 April 2021, who has built up a GMP and who subsequently undertakes a:

- non-club CETV out of the LGPS
- non-club CETV into the LGPS
- CETV in respect of a Divorce calculation

The value of the CETV out, the earned pension purchased within the active member's pension account and the pensioner calculation on Divorce, will be adjusted for the GMP, even though such a member will not receive any AP from the state upon reaching SPa.

The Secretariat raised this issue with HMT on 28 February 2018.