

Secretary of State Actuarial Guidance – Outstanding Queries (as at 16 July 2021)

Query ¹	Statutory Guidance	Brief description	Status
2	Limit on additional Cash Commutation	Use of AVC funds at retirement	With GAD
7	Scotland - Annual Allowance Charges: Calculation of Scheme Pays Offset	Actuarial guidance incorrectly states the Pension Input Period is 1st April to 31st March	CLOSED
8	Individual Incoming & Outgoing Transfers	Guidance needs clarification when a member who has flexibly retired can transfer out a separate deferred benefit.	With GAD
20	Limit on total amount of benefits – Lifetime allowance	How should a lifetime allowance scheme pays deduction be apportioned across the different tranches of membership?	With GAD
26	Scotland – Interfund Adjustments	Methodology used in Scottish interfunds is different to that in E&W	CLOSED
27	Limit on additional cash commutation	Formula used to calculate maximum tax free cash	With GAD
29	Limit on additional cash commutation	Different treatment of pre and post 2014 AVC contracts	With GAD
30	Limit on total amount of benefits – Lifetime allowance	Guidance makes no reference to restrictions on commuting GMP/Section 9(2B) rights when taking a LTA excess lump sum	With GAD
39	Flexible retirement	What death grant is paid if a member dies following flexible retirement?	With GAD
40	Purchase of additional pension – Elections on or after 1 April 2014	How to determine the maximum additional pension an individual can purchase, where they have: <ul style="list-style-type: none"> already purchased additional pension under the 2014 Scheme (regulation 16), and /or already purchased additional pension under the 2008 Scheme (regulation 14 of the LGPS (BMC) Regulations 2007) 	With GAD
41	Purchase of additional pension – Elections on or after 1 April 2014	Whether additional pension is reduced where a member is paid Tier 3 ill health benefits?	With GAD
6	Annual Allowances Charges: Calculation of Scheme Pays Offset	Interaction of Scheme Pays with valuing benefits for IP2016	CLOSED
9	Factors to use for purchase of additional survivor benefits	Multiple corrections necessary mostly to reflect that no new contracts can be taken out	CLOSED

¹ Corresponds to query number on referral log used in meeting of 23 May 2017

10	Early payment of pension	Guidance does not reflect that certain club transfers can still purchase D2 final salary benefits where membership is after 1/4/2015	CLOSED
12	All Statutory guidance where appropriate	Some of the statutory guidance still refers/links to the withdrawn Registered Pension Scheme Manual (RPSM)	CLOSED
14	Individual Incoming & Outgoing Transfers	Multiple queries raised by Capita on the transfer guidance	CLOSED
15	Use of accumulated AVCs to provide additional pension under the Scheme (AVCs contracts before 1 April 2014 and Councillor members)	The title of the guidance incorrectly includes the reference to Councillor members who are debarred	CLOSED
17	Interfund transfers	Correction to wording in paragraph 3.8(a) required	CLOSED
19	Pension Debits	Pension debits of 100% leave deferred members with a residual amount of PI payable	CLOSED
22	Individual Incoming & Outgoing Transfers	Guidance needs to be updated to take into account the revised Club memorandum	CLOSED
28	Individual Incoming and Outgoing transfers	Valuing protected rights – do we need to refer each case to GAD?	CLOSED
31	Individual Incoming & Outgoing Transfers	Paragraph 7.5 of the guidance states that for non-club protected final salary cases these should be referred to GAD via DCLG for calculation, however DCLG have agreed for GAD to produce a suite of factors for these cases.	CLOSED
32	Individual Incoming & Outgoing Transfers	Where a member's NPA is not a whole number how should excess days in a month be treated for interpolation purposes.	CLOSED
33	Use of accumulated AVCs to provide additional pension under the Scheme - non-councillor members who commenced payment of AVCs on or after 1 April 2014	Should separate factors apply for pension credit members given that the current factors automatically provide for dependent benefits for which pension credit members do not qualify?	CLOSED
34	Late retirement	Guidance contradicts LGPS 2013 Regulations	CLOSED
35	Application of a pension debit for divorced members – transfer date from 1 April 2014	Basis on which debits are revalued means that where pay increases are less than inflation the debited member can end up with a higher debit than the value of benefits to which it relates	CLOSED

36	Club factors spreadsheet issued by MHCLG	Club factor spreadsheet does not provide immediate payment factors for those members who take a Club transfer out and are over their critical retirement age at the time of the transfer	CLOSED
37	Individual Incoming & Outgoing Transfers	Section 2.22.3 needs to clarify that is referring to opposite sex marriages	CLOSED
38	Trivial Commutation	What survivor benefit should be used in the commutation calculation where the member is single?	CLOSED

Guidance	Date
E&W - Limit on additional cash commutation	26/03/2014 – amended up to July 2015
Query 2. Use of AVC funds at retirement	
<p>Brief description:</p> <p>Where a member buys an annuity with an AVC excess (where the AVC cannot all be taken as tax free cash) outside of the Scheme, the value of the AVC fund that is used to purchase the annuity is not used in the calculation of the Capital Value of the LGPS benefits. This means it is impossible to determine how much tax free cash a member can take as the administering authority would need to know what the member wanted to do with the excess AVC fund before calculating the maximum lump sum.</p> <p>Previous guidance referred to Type I and Type II cases in relation to AVCs. Type I being where the AVC taken at the same time as the main LGPS benefits is less than the difference between the maximum lump sum and the retirement grant from the main scheme LGPS and Type II where it was equal to or more than the difference. This was helpful and it would be useful if a version of this could be re-introduced in the current guidance. Issue linked to query 29 (see below).</p> <p>Query first raised on 7 August 2015 – see attached document for full details.</p>	
Query 27. Formula used to calculate maximum tax free cash	
<p>Brief description:</p> <p>The guidance issued by GAD on 22 May 2006 provided an alternative formula for the maximum PCLS formula $([LS + (P \times 20)] / 4)$ because this formula causes problems as it is cyclical i.e. once you think you have the answer, you will realise that the answer is already wrong (as the components of the formula have changed whilst obtaining the answer—because it is the post-commutation pension that is relevant for the calculation).</p> <p>The alternative methodology was carried forward into the Lifetime Allowance and Additional Cash Commutation guidance issued on 18 June 2008 but it is not included in the guidance issued on 1 March 2013 or the current guidance. Can you please confirm why the alternative formula was removed from the guidance from 2013 onwards and if funds should still be using the methodology, as set out in the guidance on 22 May 2006, in order to avoid paying lump sums in excess of 25% of the capital value?</p> <p>We note that a version of the alternative formula for maximum PCLS has remained in guidance for both Scotland and Northern Ireland.</p> <p>Query first raised on 22 March 2017 – see attached document for full details.</p>	

Guidance		Date
E&W - Limit on additional cash commutation		26/03/2014 – amended up to July 2015
Query 29.	Different treatment of pre and post 2014 AVC contracts	
Brief description: Before 14 May 2018 the wording of regulation 33(2) of the LGPS Regulations 2013 allowed members to draw up to 25% of the Capital Value of the main benefits as a lump sum and regulation 17 allows 100% of the AVC pot to be drawn as a lump sum. So, technically, the member was able to draw in excess of 25% of the overall value of their combined main scheme and AVC benefits. However, that would have meant allowing the member to take an unauthorised lump sum - something that, as a scheme, we should not permit.		
Paragraph 2.7 and 2.9 of the actuarial guidance reflect the wording of the regulations before they were corrected. LGA have requested that:		
<ul style="list-style-type: none">a) the words “(but otherwise it is excluded, by virtue of regulation 33(2) of the 2013 Regulations)” be deleted from the end of paragraph 2.7, andb) the words “and the AVC arrangements were entered into prior to 1 April 2014” be deleted from paragraph 2.9(a), andc) paragraph 2.9(b) be deleted.		

Guidance		Date
Annual Allowances Charges: Calculation of Scheme Pays Offset		26/02/2015
Query 6:	Interaction of Individual Protection 2016 (IP2016) with an annual allowance scheme pays offset	
Brief description:		
How should pension benefits be valued for IP2016 where a scheme pays election for an annual allowance charge has a relevant date of prior to 5/4/2016 but the paperwork is not completed by that date?		
The situation is reasonably clear that if a scheme pays debit has a relevant date after 5/4/2016 then that debit could not be allowed for in the valuation of a pension at 5/4/2016. The situation is less clear for a scheme pays debit with a relevant date prior to 5/4/16 for which the paperwork is not complete by that date.		
HMRC have confirmed that in relation to the adjustments having to be made to the member's benefits, they cannot be prescriptive as to when or how the adjustment has to be made, all they would say is simply that an adjustment must be made to the member's benefit rights.		
Query first raised on 16/07/2016 — see attached document for full details		

Guidance	Date
Annual Allowances Charges: Calculation of Scheme Pays Offset	26/02/2015
<p>Update: Email from James Pepler on 19/10/2017 confirmed that GAD view this is a legal question of how to interpret HMRC legislation rather than an actuarial question so they do not feel that it is appropriate to be placed in actuarial guidance that is issued by the DCLG. GAD would therefore expect that the next review of the guidance would take out the similar material on other, earlier, protections. The matter has now been referred to the national LGPS Technical Group for consideration at their next meeting on 12/12/2017.</p> <p>Update: HMRC have now confirmed that where a member's benefits have been subject to a scheme pays adjustment the value of the benefits for IP2016 should be the value after the adjustment even if the actual adjustment can only be applied retrospectively because paperwork has not completed in time.</p>	

Guidance	Date
Early payment of pension	18/04/2016
<p>Query 10: Guidance does not reflect that certain club transfers can still purchase D2 final salary benefits where membership is after 1/4/2015</p> <p>Club transfers from non-public sector outer Club schemes (who are still running final salary schemes) can purchase D2 final salary benefits in the LGPS, even where the member joined that non-public sector outer Club scheme after 1/4/2015 and so has no pre 1 April 2015 membership. We therefore suggest that the words "which included service before 1 April 2015" be deleted from paragraph B13 of this guidance.</p> <p>(NB connected query relating to para. 1.18 of the transfer guidance has already been actioned)</p> <p>Query first raised 08/05/2016</p> <p>Update: Paragraph C.13 of the guidance dated 5 May 2021 has deleted the words "which included service before 1 April 2015".</p>	

Guidance	Date
Scotland - Annual Allowance Charges: Calculation of Scheme Pays Offset	26/02/2015
<p>Query 7: Actuarial guidance incorrectly states the Pension Input Period is 1 April to 31 March</p> <p>Brief description:</p>	

Guidance	Date
Scotland - Annual Allowance Charges: Calculation of Scheme Pays Offset	26/02/2015
<p>Paragraph 2.3 states: SPPA has confirmed that the Relevant Date (also known as the Implementation Date) will be the day coincident with the end of the pension input period. The pension input period in the LGPS runs from 1 April to 31 March, so the Relevant Date will be 31 March.</p> <p>All PIPs were aligned with the tax year from 6 April 2016 onwards with transitional rules applying for 2015/16.</p> <p>NB: The NI guidance has the same issue (again paragraph 2.3) but the E&W guidance is not affected.</p> <p>Query first raised on 18 March 2016</p> <p>Update: Guidance dated 19 September 2019 removes this issue</p>	

Guidance	Date
Factors to use for purchase of additional survivor benefits	24/11/2015
<p>Query 9: Multiple corrections necessary mostly to reflect that no new contracts can be taken out</p> <p>Guidance does not reflect that no new contracts for the purchase of additional survivor benefits can be entered into after 31/3/2014. See the attached document setting out all the necessary amendments.</p> <p>Bob Holloway confirmed regulatory references are all correct.</p> <p>Query first raised on 26/02/2016.</p> <p>Update: Paragraph 1.2 of the GAD guidance dated 5 May 2021 reflects that members are not able to take out new contracts.</p>	

Guidance	Date
All Statutory guidance where appropriate	Various
<p>Query 12: Some of the statutory guidance still refers/links to the withdrawn Registered Pension Scheme Manual (RPSM)</p> <p>All references and hyperlinks should now refer to the relevant Pensions Tax Manual (PTM) reference.</p> <p>Update: as GAD have released revised guidance this has been corrected.</p>	

Guidance		Date
Individual Incoming & Outgoing Transfers		08/04/2016 & 08/04/2020
Query 8:	Guidance is not prescriptive enough when referring to when a member who has flexibly retired can transfer out a separate deferred benefit.	
Brief description: Paragraph 2.24 A member may be receiving pension benefits whilst still accruing further benefits, for example after “flexible retirement”. If such a member leaves service and requests a Club transfer or CETV (for the purposes of transferring a pension, not for divorce purposes) then the Club transfer or CETV should allow only for the deferred benefits but not the benefits in payment. The benefits in payment may not be transferred, and would only be considered when calculating a CETV for divorce purposes”.		
However, in LGA's view the only circumstances that this would be permitted would be for a Club transfer. See attached document for full details of query.		
Query first raised on 4 May 2016		
Update: Guidance dated 8 April 2020 still refers to a flexible retiree being able to transfer out (paragraph 3.25) which is not permissible under our scheme rules.		
Query 14:	Multiple queries raised by Capita on the transfer guidance	
Brief description: See attached document for details. LGA reviewed status of queries on 25/05/2017 and have included updates to each query raised in the document.		
Query first raised on 9 May 2016		
Update: All resolved with issue of latest guidance dated 8 April 2020		
Query 22:	Guidance needs to be updated to take into account the revised Club memorandum	
A revised Club memorandum is effective from 1 March 2017. All references in the transfer guidance are to the old guidance. In addition GMPs are no longer taken account if Club transfer which is not reflected in this guidance.		
Query first raised 07/12/2016		

Guidance	Date
Individual Incoming & Outgoing Transfers	08/04/2016 & 08/04/2020
Update: GAD Guidance dated 8 April 2020 removes this query	
Query 28:	Valuing protected rights – do we need to refer each case to GAD?
Para 2.31 of the individual transfers guidance dated 8th April 2016 says that formulas and factors to value protected rights have not been included in the suite and such calculations should be referred to DCLG for onward transmission to GAD. This mirrors the equivalent para 2.32 in the previous version of the guidance dated 28th March 2014.	
However, in September 2015 we had confirmation from James Pepler (see attached email) that these cases did not need to be referred to DCLG and instead funds could use the factors in table 6.1 of the factor suite dated 22nd February 2012 (http://www.lgpsregs.org/timelinereggs/GAD/EW_TVfactors_v41_220212.pdf)) to value protected rights.	
Can funds still use those factors or should these cases be referred on to DCLG?	
Query first raised 02/08/2016	
Update: James Pepler confirmed by email on 25 May 2017 that it is not possible to use the 2012 factors any more so the guidance is correct and these cases do need to be referred to GAD.	

Guidance	Date
Use of accumulated AVCs to provide additional pension under the Scheme Members who commenced payment of AVCs before 1 April 2014 and Councillor members	14/04/2016
Query 15:	The title of the guidance incorrectly includes the reference to Councillor members who are debarred
GAD confirmed it is also their understanding that councillors do not have this option so this guidance will be amended in due course to note this.	
Query first raised 12/05/2016/	
Update: Lamide Shittu (GAD) re-issued guidance on 6 June 2017 which corrected the above	

Guidance		Date
Purchase of additional pension – Elections on and after 1 April 2014		01/03/2019
Query 40:	<p>How to determine the maximum additional pension an individual can purchase, where they have:</p> <ul style="list-style-type: none">• already purchased additional pension under the 2014 Scheme (regulation 16), and /or• already purchased additional pension under the 2008 Scheme (regulation 14 of the LGPS (BMC) Regulations 2007)	
<p>Below is the Secretariat’s view as to how the maximum additional pension should be calculated where a member has already purchased additional pension under the 2014 Scheme (regulation 16), and /or already purchased additional pension under the 2008 Scheme (regulation 14 of the LGPS (BMC) Regulations 2007). We have asked GAD for confirmation that they agree, else to provide guidance on an alternative method.</p> <p>The Secretariat’s view</p> <p>The fundamental difference between the ARC limit under the 2008 regulations as opposed to the APC limit under the 2013 regulations, is that the latter is inflation proofed (regulation 16(6) of the LGPS Regulations 2013) the earlier is not (regulation 14(1) of the LGPS (BMC) Regulations 2007).</p> <p>ARCs:</p> <p>When determining the maximum additional pension, a person could buy under regulation 14 of the LGPS (BMC) Regulations 2007, the limit was purely £5,000. The GAD guidance (as was) stated that any additional pension purchased under regulation 14 is increased by PI from day 1 of the payment period. However, there was nothing in regulation 14 to say that when determining the limit, it should be the additional pension plus PI that is deducted from the £5,000. In fact, we would argue that the PI is irrelevant as PI cannot be paid until the conditions within the PI ACT 1971 are met (it’s simply a notional PI until those conditions are met). So, prior to 1 April 2014, when determining the maximum additional pension a person could purchase by way of an ARC it was quite simply £5,000, PI was ignored.</p> <p>APCs:</p> <p>On 1 April 2014, if prior to that date a person had elected to purchase additional pension of £5,000, this is deducted from the new £6,500 limit under APCs. There is nothing in the regulations to state that the ARCs increased by PI should be deducted from the £6,500 limit. In fact, MHCLG, simply said that the £5,000 limit on ARCs should be taken into account when determining the maximum APC that can be purchased.</p> <p>However, going forward the £6,500 limit increases each year. So, from 1 April 2020 a person can purchase £7,194. If that person had already purchased £5,000 of ARCs then this would need to be deducted from the £7,194, leaving £2,194 to purchase. If the person had already purchased an APC then we believe for the purpose of determining the limit only (not the amount <u>to be</u> credited to the pension account) the amount purchased should be revalued in the same way as the additional pension limit. This</p>		

Guidance	Date
Purchase of additional pension – Elections on and after 1 April 2014	01/03/2019
<p>will remove any inconsistencies between the APC limit and the amount to be purchased when determining if the limit for that year has been exceeded (it doesn't work at the moment because APCs are revalued under Treasury Order revaluation, whereas the APC limit is revalued under the PI Act 1971).</p> <p>Query first raised 3 June 2020</p>	
Query 41: Whether additional pension is reduced where a member is paid Tier 3 ill health benefits?	
<p>Paragraphs 4.2 to 4.4 of the Post 14 APC guidance dated 1 March 2019 states:</p> <p>4.2. A member who retires with an ill health Tier 1 or Tier 2 pension is treated as having paid all their contributions and an appropriate 'top up' adjustment is made to their active member's pension account in accordance with regulation 16(14) of the 2013 Regulations.</p> <p>4.3 On early retirement (before normal pension age under the 2013 regulations), to allow for early payment, an actuarial reduction will apply to the additional pension purchased (or granted) under</p> <p>a) regulation 16 or</p> <p>b) regulation 31 except where regulation 30(7)(b) applies i.e. the member is aged 55 or over and is dismissed by reason of redundancy or business efficiency, or whose employment is terminated by mutual consent on grounds of business efficiency.</p> <p>4.4 The additional pension, however, is payable without reduction if the member retires with a Tier 1 or Tier 2 ill health pension.</p> <p>We agree with paragraph 4.2 i.e. that an APC contract is deemed to be fully paid for if the member retires with a Tier 1 or Tier 2 ill-health pension (but the member only gets credited with what they have paid for if they are retired with a Tier 3 ill-health pension). However, we disagree with the combination of paragraphs 4.3 and 4.4 in relation to a Tier 3 ill-health pension as they signify that the additional pension is payable without actuarial reduction if the member is awarded a Tier 1 or Tier 2 ill-health pension but the additional pension is subject to an actuarial reduction if the member is awarded a Tier 3 ill-health pension.</p> <p>Regulation 39(3) of the LGPS Regulations 2013 does not allow for such an actuarial reduction to be applied as it states that Tier 3 benefits are the retirement pension that would be payable to the member if that member had reached normal pension age on the date the active member's employment was terminated. A retirement pension at NPA is not actuarially reduced.</p> <p>We think paragraph 4.4 should state: The additional pension, however, is payable without reduction if the member retires with a Tier 1, Tier 2 or Tier 3 ill health pension (although paragraph 4.3 will apply if a Tier 3 pension is subsequently terminated and the member elects to bring it back into payment early).</p>	

Guidance	Date
Interfund transfers	14/04/2016
Query 17: Correction to wording in paragraph 3.8(a) required	
<p>Para 3.8(a) of the interfund transfer guidance appears to be missing the words 'of cessation' before 'of active membership'</p> <p>Query first raised 24/05/2016</p> <p>Update: Lamide Shittu (GAD) re-issued guidance on 31 May 2017 which corrected the above.</p>	

Guidance	Date
Pension Debits	29/04/2016
Query 19: Pension debits of 100% leave deferred members with a residual amount of PI payable	
<p>Query relates to when a pension debit is applied to a deferred member with a 100% sharing order.</p> <p>Paragraph 4.4 confirms that the pension debit is increased with effect from the Transfer day:</p> <p>4.4 Both active and deferred members' debits should be increased from the Transfer day until benefits come into payment as if they were deferred pensions.</p> <p>However, where a sharing order directs that 100% of a deferred pension is to be awarded to the ex-spouse this leaves a residual amount of PI payable to the deferred member because the deferred benefit is increased for the full year whereas the debit is increased from the transfer day (unless by chance the transfer day and the pensions increase day happen to be the same).</p> <p>This leaves a situation where although 100% of the member's benefits have been debited there is still a small amount of PI payable—is this correct? If one takes the view that there is no PI actually payable under section 8 of the PI Act 197 as there are no benefits payable to the member on which to apply pensions increase then it would seem not.</p> <p>8(1)For purposes of this Act "pension" includes (subject to section 9 below)- (a)any allowance or other benefit payable (either in respect of the services of the pensioner or in respect of the services of any other person) by virtue of any superannuation scheme, whether contained in an enactment or otherwise, including a superannuation scheme providing benefits in the case of injury or death;</p> <p>Query first raised on 18/10/2016</p>	

Guidance	Date
Pension Debits	29/04/2016
<p>Update from meeting held on 23/05/2017 – LGA to suggest pragmatic solution and advise GAD by July if guidance need updating.</p> <p>Update: On 07/06/2017 LGA forwarded the below to DCLG and GAD:</p> <p>In LGA's view, the residual amount of PI would be payable to the debited member, albeit that the fund may, where appropriate, choose to pay the amount due as a trivial commutation or de minimis payment. Will the guidance be amended to reflect this position if DCLG and GAD are both in agreement?</p> <p>Update: GAD guidance dated 11 June 2020 clarifies the position</p>	

Guidance	Date
Limit on total amount of benefits – Lifetime allowance	14/04/2016
<p>Query 20: How should a lifetime allowance scheme pays deduction be apportioned across the different tranches of membership?</p> <p>The guidance is silent on how a LTA scheme pays deduction should be applied to a member's benefits.</p> <p>This is different to the annual allowance guidance for scheme pays which specifically states in paragraphs: -</p> <p>1.3 In accordance with regulation 16 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 a pension offset determined on or after 1 April 2014 can apply to benefits earned prior to 1 April 2014.</p> <p>2.4 The scheme pays offset will be initially based on the pension relating to the Post 1 April 2014 service (i.e. on the current tranche of benefits). Where at retirement, the post 2014 pension is insufficient to cover the pension offset then the balance of the offset should be initially applied to the pension earned between 1 April 2008 and 31 March 2014, with suitable adjustment for early or late payment by reference to the post-2014 NPA. If the offset cannot be met by the post-2008 benefits then the case should be referred to DCLG.</p> <p>We are not sure if the LTA debit should be apportioned in the same way as instructed for the Annual Allowance Scheme Pays Debit for several reasons:</p> <ul style="list-style-type: none"> • The LTA debit represents the tax charge that has arose as a result of the member's lifetime pension saving within the LGPS in that employment(s) thus at least in the short-term, that value can most likely be attributed to the final salary element of the pension • The AA Scheme Pays debit represents that tax charge that has over a single PIP 	

- How the LTA debit is proportioned will affect how it is revalued going forward (i.e. if deducted from FS in the first year of leaving it would receive a pro-rata PI the following April – if deducted from CARE it will receive part year TO 1 second after midnight on 1 April and pro rata PI thereafter).

I would, therefore, be grateful if you could advise how the LTA debit is deducted from LGPS benefits (i.e. CARE / FS or a combination of both)? See [attached document](#) for full details.

Query first raised on 19 October 2016

Update from meeting held on 23 May 2017 – LGA to suggest pragmatic solution and advise GAD by July if guidance need updating.

Update: On 7 June 2017 LGA forwarded the below to DCLG and GAD:

LGA's view is that the LTA debit should be split proportionately across the different tranches of benefits payable to the member. For example:

LTA debit: £1,500

Annual pension prior to debit:

Pre 2008 benefits: £20,000

2008 to 2014 benefits: £5,000

Post 2014 benefits: £5,000

Annual Pension post debit:

Pre 2008 benefits: £20,000 less £1,000 = £19,000

2008 to 2014 benefits: £5,000 less £250 = £4,750

Post 2014 benefits: £5,000 less £250 = £4,750

If DCLG and GAD are both in agreement with this approach, will the guidance be amended accordingly?

Query 30: Guidance makes no reference to restrictions on commuting GMP/Section 9(2B) rights when taking a LTA excess lump sum

Paragraphs 2.20 and 2.22 of the guidance says that a member can commute pension above ALTA for a lump sum. However, whilst that is permissible under the Finance Act 2004 it appears that, as the LGPS was formerly a contracted out scheme, it cannot allow commutation of pre 6 April 1997 GMP or post 5 April 1997 section 9(2B) rights for a LTA excess lump sum. This is

because regulations 18 and 25 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 (SI 2015/1677) do not permit such rights to be commuted. At a meeting on 28 May 2015, GAD and DCLG agreed to consider the above points, and, if appropriate, make changes to the guidance.

In addition, the guidance needs updating to take into account that the Finance Act 2016 has now been enacted and introduced Fixed and Individual Protection 2016.

The first part of this query was originally included in [bulletin 132](#) (page 5) – May 2015.

Update: On 18 July 2017 GAD confirmed that the options in the guidance are only available subject to overriding legislative requirements. When the guidance is next issued, the restrictions in regulations 18 and 25 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 will be made clearer.

The LGA have asked that the new guidance provides a method for funds to split benefits in order for funds to determine which portion of an individual's pension is available for commutation.

Guidance		Date
Scotland - Interfund Transfers		26/02/2015
Query 26:	Methodology used in Scottish interfunds is different to that in E&W	
In the latest “Individual Incoming and Outgoing Transfer” guidance (dated 9 March 2017) GMPs are ignored for Club transfers out. So, on the face of it, GMPs should now be excluded from Scottish interfund adjustments. However, that would put the Scottish guidance completely out of step with that applicable in E&W where the interfund is calculated as a non-Club out and in, with the GMP taken into account; whereas in Scotland it would be a Club out and, for post 15 benefits, non-Club in — with the GMP not taken into account.		
Please advise accordingly.		
Query first raised on 24 April 2017		
Update: Guidance dated 15 September 2020 shifts the interfund calculation non-club		

Guidance		Date
Individual Incoming and Outgoing Transfers		08/04/2016

Query 31: ~~Paragraph 7.5 of the guidance states that for non-club protected final salary cases these should be referred to GAD via DCLG for calculation, however DCLG have agreed for GAD to produce a suite of factors for these cases.~~

~~Paragraph 7.5 of the guidance states that non-club protected final salary cases should be referred to GAD for calculation on a case by case basis. Due to the number of these cases arising DCLG have agreed for GAD to produce some guidance to funds (i.e. a suite of factors) rather than treat each one as an individual query. This was agreed on 12/5/2017 and chased on 19/12/2017.~~

Update: GAD guidance dated 8 April 2020 includes the relevant factors

Query 32: ~~How should an interpolation calculation be carried out within either a Club transfer in, or a Club transfer out (though the query equally applies to a CETV or non-Club transfer in) where the member's NPA is not a whole number?~~

~~The query in question concerns a member whose NPA is 67 years 4 months and 4 days and there appears to be various views (between LGPS Administering Authorities and other Public Service Pension Scheme administrators) as to how the calculation should be performed:~~

~~View 1?) $((8/12) * \text{Factor at NPA 66}) + (4/12) * \text{Factor at NPA 67})$ – (i.e. the months have been rounded down to 4)~~

~~View 2?) $((7/12) * \text{Factor at NPA 66}) + (5/12) * \text{Factor at NPA 67})$ – (i.e. the months have been rounded up to 5)~~

~~View 3?) $((230^2/365 * \text{Factor at 67}) + (135^1/365) * \text{Factor at 68})$ – The exact days have been used, this is the way the calculation has historically performed.~~

~~¹25 August 2044 to 6 January 2045 = 135 Days~~

~~²365 – 135 = 230 Days~~

Background

~~Paragraph 5.1 states “From tables 1 to 9 as appropriate for the member's NPA and gender. Where NPA is not a whole number, factors should be interpolated based on the tables relating to the two nearest NPSs (eg for NPA between 67 and NPA 68).” This statement is not prescriptive in how the interpolation should be calculated in so much that the guidance does not limit interpolation between whole months nor does not confirm to use days out of 365.~~

~~Paragraph 9.2 states “*Note: The relevant NM or NF is whichever of the tables NM65, NF65, NM66, NF66, NM67, NF67, NM68 and NF68 is relevant to the member's sex and NPA. Where the member's NPA is not a whole number, the factors should be interpolated from the two tables for the member's sex with the nearest NPAs (eg for a female with NPA 67.2, the factors should be interpolated from NF67 and NF68).” Again, this statement is not prescriptive in how the interpolation should be calculated in so much that whilst the guidance uses an example of an NPA of 67.2 it does not limit interpolation between whole months nor does not confirm to use days out of 365.~~

~~Paragraph 10.10 states “From Tables 1 to 8 as appropriate for the member’s NPA and gender. Where NPA is not a whole number, factors should be interpolated based on the tables relating to the two nearest NPAs (eg for NPA between 67 and 68, interpolate between the tables for NPA 67 and NPA 68).” This statement is not prescriptive in how the interpolation should be calculated in so much that the guidance does not limit interpolation between whole months nor does not confirm to use days out of 365.~~

~~Actuarial Factors for Individual Cash Equivalent and Club Transfers from 1 March 2017 dated 9 March 2017~~

~~Paragraph 1.3 states “Tables of factors are given for NPAs 65, 66, 67 and 68. Where a member’s NPA is not a whole number, the factors for the member’s NPA should be found from the tables using straight line interpolation. For example, a factor for NPA 66 years 7 months is determined using the formula below:~~

~~$$= ((5/12) * \text{Factor at NPA 66}) + (7/12) * \text{Factor at NPA 67})$$
”~~

~~The examples in the above guidance use an exact member’s NPA, therefore, there is no prescription in how the interpolation should be calculated in so much that the guidance does not limit interpolation between whole months nor does not confirm to use days out of 365.~~

~~Query first raised on 09/01/2018~~

Update: GAD guidance dated 8 April 2020 includes the relevant calculation section 14

Query 37: Section 2.22.3 needs amending to clarify that it relates to opposite sex marriages

~~Section 2.22.2 of the guidance provides that were the member is not married, civil partnered or cohabiting with a partner who meets the definition of a cohabiting partner at the guarantee date but the member had previously been in a civil partnership or same sex marriage, the survivor’s benefit should be the benefit that would be payable to the survivor were the member to enter a civil partnership or same sex marriage after leaving the Scheme.~~

~~Section 2.22.3 states that in all other cases, the survivor’s benefit should be the benefit that would be payable to a spouse were the member to marry after leaving the Scheme.~~

~~Section 2.22.3 needs to clarify that it is referring to an opposite sex marriage.~~

~~Query first raised on 28/05/2019~~

Update: GAD guidance dated 8 April 2020 changes the approach entirely for the calculation of survivor benefits within a transfer calculation

Guidance		Date
Use of accumulated AVCs to buy additional pension (post 2014 contracts)		14/04/2016
Query 33:	Should separate factors apply for pension credit members given that the current factors automatically provide for dependent benefits for which pension credit members do not qualify?	
The guidance applies to pension credit members as well as to members in their own right. Given that the guidance provides for dependents' benefits to be provided automatically on the death of a member, should there be different factors for pension credit members, as no dependents' benefits are payable in respect of pension credit members?		
Query first raised on 28 February 2019		

Guidance		Date
Late retirement		18/04/2016
Query 34:	The guidance states that regulations 30(3) and 30(11) of the 2013 Regulations require that the pension must come into payment no later than the day before the member's 75th birthday – the regulations actually say that the benefit must come into payment from the member's 75th birthday	
Paragraph 2.16 of the guidance states that regulations 30(3) and 30(11) of the 2013 Regulations require that the pension must come into payment no later than the day before the member's 75th birthday – the regulations actually say that the benefit must come into payment from the member's 75th birthday – see below:		
30 (3) A member to whom paragraph (1) applies may elect to defer payment of a retirement pension to a date after that member's normal pension age up to the date when that member attains the age of 75.		
(11) A pension credit member may elect to defer payment of a retirement pension deriving from a pension credit to a date after that member's normal pension age and, if the member does so, is entitled to immediate payment of a retirement pension from any date up to the date when that member attains the age of 75, enhanced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State, irrespective of whether the pension credit member is also an employee in local government service.		
Query first raised on 28/02/2019		
Update: GAD Guidance dated 5 May 2021 corrects the above.		

Query 35: Basis on which debits are revalued means that where pay increases are less than inflation the debited member can end up with a higher debit than the value of benefits to which it relates

Paragraph 4.4 of the post 2014 and 2.6 of the pre 2014 guidance provide that both active and deferred members' debits should be increased from the Transfer day until benefits come into payment as if they were deferred pensions.

In recent times public sector pay increases have not kept up with inflation which means that there have been some instances where the pension debit has become higher than the value of benefits to which it relates. This anomaly has been highlighted where the pension debit is 100%, however, the principle is the same no matter the % and it is particularly evident where the member holds final salary benefits (though equally relevant to CARE where the CARE revaluation is negative).

Let's look at an example:

On 31 March 2014 (Transfer day) a member is subject to a pension sharing order of 100% of their pension benefits. The active member takes payment of their benefits on 31 March 2019 (no actuarial reduction)

Pension benefits	Values	Pension debit	PI on pension debit to date of payment of 31/03/19 (1.0528 using 2018 multiplier tables)	Total pension debit to be deducted from benefits on payment
Annual FS Pension on 31/03/14	£5,000	-£5,000	-£264	
FS 3/80 th Lump Sum 31/03/14	£10,000	-£10,000	-£528	
Annual FS Pension on 31/03/19	£5,000 (no increase in final salary due to pay restrictions)			-£5,264
FS 3/80 th Lump Sum 31/03/19	£10,000 (no increase in final salary due to pay restrictions)			-£10,528
2014 CARE pension on 31/03/19	£2,500			

Guidance	Date
Pension debits	14/04/2016
<p>So, when the annual pension is paid, the final salary element is £264. However, the CARE element is £2,500 and we suspect (rightly or wrongly) that administering authorities are simply knocking this negative off the CARE element, reducing the annual pension to £2,236.</p> <p>However, the anomaly is really exposed on the lump sum as the 3/80th lump sum is £528. We are aware of an instance where the member has been asked to pay back the negative lump sum.</p> <p>Section 27 of the Welfare Reform and Pensions Act 1999 confirms that a person shareable rights under a pension scheme are “a person's shareable rights under a pension arrangement are any rights of his under the arrangement, other than rights of a description specified by regulations made by the Secretary of State”. Section 29 of the 1999 Act states “On the application of this section the transferor's shareable rights under the relevant arrangement become subject to a debit of the appropriate amount”</p> <p>Query first raised on 15/03/2019</p> <p>Update: GAD confirmed in their letter to MHCLG dated 17 January 2020 that they will not be making any amendments to address this query. GAD understands the issues raised around fairness, they note the actuarial factors and guidance methods have been agreed to be based on long term assumptions rather than those in the short term. Additionally, the broad method for applying debits is common between several MOCOP schemes. Though they do acknowledge that they would be happy to make an update (subject to any new policy decision) regarding cases where total debits exceed total pension, lump sum or partner/survivor benefits.</p>	

Guidance	Date
Club factors issued by MHCLG	01/04/2019
<p>Query 36: Club factor spreadsheet does not provide immediate payment factors for those members who take a Club transfer out and are over their critical retirement age at the time of the transfer</p> <p>The new set of Club factors — reproduced in the factor spreadsheet issued by MHCLG do not provide immediate payment factors for those members who take a Club transfer out and are over their critical retirement age at the time of the transfer.</p> <p>The Club memorandum (for both March 17 and April 19) sections 7.4 and 7.4a refer to “Benefits payable before Normal Pension Age without full actuarial reduction” with 7.4a referring specifically to the approach that has been agreed for the LGPS for those members with part or all of their benefits payable before their Normal Pension age, but there is no reference to members who</p>	

Guidance	Date
Club factors issued by MHCLG	01/04/2019
<p>have already attained the age at which part or all of their benefits are payable unreduced (i.e. their critical retirement age – CRA), as follows:</p> <p>“7.4a An approach has been agreed for the Local Government Pension Scheme. Benefits (both final salary and CARE) can attract a Critical Retirement Age (where benefits are payable unreduced) prior to age 65 (subject to a minimum of age 60). Where this is the case, the sending LGPS Administering Authority will use conversion factors to convert the benefits (from that payable at CRA to an amount payable at age 65) and apply the Club factors for NPA of 65. The conversion factors are supplied by GAD to the LGPS within its extant Secretary of State guidance”.</p> <p>To account for those cases where the member had reached/passed their CRA on all or part of their benefits, the Secretary of State guidance for <u>Individual Incoming & Outgoing Transfers (dated 8 April 2016)</u> stated, in section 2.30:</p> <p>-</p> <p>“Where a member is over the age by reference to which an element of the transfer value is calculated (eg where a member is aged 61 and the CRA applicable to an element of the transfer value is age 60), the transfer value for that element should be based on immediate pension factors as set out in Club tables for Club cases (provided in the Factors Suite) and GAD pensioner on divorce tables for non Club cases.”</p> <p>-</p> <p>Accordingly, the previous <u>Secretary of State factor guidance dated 9 March 2017</u> included immediate payment factors for Club transfers out for members who reach NPA from age 65 to 68.</p> <p>However, the new transfer factors included within the factor suite dated 29 March 2019 do not include any equivalent factors and we are unsure as to the approach that should be taken?</p> <p>-</p> <p>So we are currently in a position whereby the extant guidance (dated 8 April 2016) includes reference to applying factors that do not exist in the extant factor suite (dated 29 March 2019), please can you confirm as to what approach should be taken for such cases?</p> <p>Query first raised on 16 April 2019</p> <p>Update: Factors issued to MHCLG on 19 September 2019 (factor sheet no.s 0-102)</p>	

Guidance	Date
Trivial commutation	14/04/2016
Query 38: What survivor benefit should be used in the commutation calculation where the member is single?	
<p>Paragraph 2.3 of the guidance is silent on how the 'contingent partner's' pension should be calculated. It is our understanding that LGPS administering authorities are currently calculating trivial commutation payments made to single members based on the survivor pension which would be paid to a post leaving opposite sex spouse. This is inconsistent with the transfer guidance which suggests that where the member is single but had previously been in a civil partnership or same sex marriage, the contingent survivor's benefit should be the benefit that would be payable to the survivor were the member to enter a civil partnership or same sex marriage after leaving the Scheme.</p> <p>Para 2.3: Table A gives age/sex specific factor to be multiplied respectively by the member's total pension (including any GMP) and the contingent spouse's, civil partner's or nominated cohabiting partner's pension payable on the member's death. The inclusion of an amount relating to a dependant's pension applies whether or not the member has a spouse, civil partner or nominated cohabiting partner at the time the commutation occurs.</p> <p>Does the guidance need to be updated in respect of how survivor benefits should be taken into account in the calculation?</p> <p>Query first raised with MHCLG on 21/03/2019</p> <p>Update: GAD guidance dated 15 April 2020 clarifies the position on survivor benefits</p>	

Guidance	Date
Flexible retirement	14/04/2016
Query 39: What death grant is paid if a member dies following flexible retirement?	
<p>The wording in the guide reflects 2008 regulations concerning a death grant – that death grants in respect of all active, deferred and pensioner memberships will all be paid. See 3.14, 3.19 and Scenario 3:</p> <p>Scenario 3 – Death</p> <p>If the member dies at age 58 exactly (ie on 31 March 2016), the following benefits will be payable:</p> <ul style="list-style-type: none"> > A death grant in relation to the continuing active membership > A death grant in relation to the drawn-down pension in payment 	

In the next version of the guidance, wording and examples should reflect 2013 regulations – death grant related to active membership only is paid, unless the combined deferred and pensioner death grant are higher.
Query first raised with MHCLG on 11 December 2019