
Local Government
House, Smith Square,
London SW1P 3HZ

Tel 020 7187 7373
Fax 020 7664 3030

pay, pensions and
employment solutions

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 58S – May 2009

Please contact Dave Friend with any comments you might have on the contents of this Bulletin or to suggest other items that you would wish to see included in future Bulletins.

Contents

[LGPS 2008 – Cost sharing](#)

[HMRC – Accounting for Tax Form](#)

[DWP – Briefing Pack](#)

[DWP Consultations](#)

[BERR Consultation on Agency Workers](#)

[CLG Consultation – governance](#)

This month [Bits and Pieces](#) includes items on [Circular 229](#), [the Timeline Regulations](#), and [LGPC Communications](#).

Email info@lge.gov.uk

www.lge.gov.uk

Managing Director Jan Parkinson

Local Government Employers is the business name of Employers Organisation for Local Government, a company limited by guarantee, registered in England and Wales, number 3676611
Registered office: Local Government House, Smith Square, London SW1P 3HZ

LGPS 2008 – Cost sharing

The LGPS (Amendment) Regulations 2009 [SI 2009/1025] came into force on 15 May 2009. The regulations:

- revoke regulation 40 (guidance on future costs) of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007;
- insert a new regulation 36A into the Local Government Pension Scheme (Administration) Regulations 2008 which requires administering authorities to have regard to guidance about how the costs of the Local Government Pension Scheme will be met in future years. In order for the Secretary of State to produce that guidance, administering authorities are required to produce by 31 August 2010 (and triennially thereafter) the data supplied to their own fund actuary to carry out the triennial actuarial valuation. The Government Actuary will use that data to produce by 31 October 2010 (and triennially thereafter) an actuarial valuation, a valuation report and an overall cost certificate which will help to inform the Policy Review Group in its deliberations on costs sharing and aid the Secretary of State in the production of the necessary guidance on how the future costs of the Scheme are to be met; and
- insert a new regulation 38A into the Local Government Pension Scheme (Administration) Regulations 2008, which requires administering authorities to consider whether the rates and adjustment certificate for their Fund should be revised to take account of any amendment the Secretary of State makes to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 as a result of cost sharing.

Prior to the above regulations being issued, CLG wrote to interested parties (on 23 April 2009) to explain the purpose of the regulations, the need for employers to provide administering authorities with end of year data in a timely manner, and to forewarn administering authorities that they [CLG] will shortly be requesting Funds to submit experience data (i.e. movements analysis) for the years 2007/08 and 2008/09 to GAD by 30 June 2009.

HMRC – Accounting for Tax Return

HMRC have announced a new account and sort code details for the Accounting for Tax return - see HMRC's [guidance](#) and [notes for the completion of form APSS302](#).

DWP Briefing Pack

DWP have published a [briefing pack](#) to explain the State Pension reforms. The pack is aimed at advisers who need to clarify the impact of the reforms to their clients.

DWP Consultations

DWP are [consulting](#) on the draft Pension Scheme Order 2009, the draft Scheme Rules and on the Transfer Value (Disapplication) Regulations 2009. The closing date for the consultation exercise is 20 July 2009.

BERR Consultation on Agency Workers

BERR has launched a [consultation](#) on the implementation of the Agency Workers Directive, the purpose of which is to give temporary agency workers limited equal treatment with comparable permanent employees.

Paragraph 4.18 of the consultation document says:

4.18 Consistent with the TUC/CBI agreement, we would intend to exclude occupational social security schemes from the entitlement to equal treatment. This would mean, for instance, that there would be no requirement to allow agency staff to participate in company pension schemes, which are clearly more a reflection of the longer-term relationship between an employer and permanent staff. However, it should be noted in this context that under the Pensions Act 2008, from 2102 "Personal Accounts" will include agency workers, giving them the benefit of workplace pension saving with an employer contribution - agency workers will have access to pension saving as other workers, and will be automatically enrolled from Day One on the same basis as permanent workers.

What the consultation document does not make clear is who will have to auto-enrol the agency worker and who will have to pay the employer contribution.

However, section 89 of the Pensions Act 2008 makes it clear that if a body (e.g. a local authority) pays the agency, who then pay the worker, it is the agency that will be responsible for auto-enrolment into a Personal Account and for making an employer contribution to it. Of course, the Agency will surely include this additional on-cost within the charge made to the local authority - so the cost of agency workers will increase.

If, however, an agency simply puts workers into contact with a local authority and the authority pays the worker direct, this would generally result in the worker becoming an employee (and thus eligible for membership of the LGPS, unless the contract was for a period of less than 3 months). If the employee is employed under a contract for less than 3 months, and thus not eligible for membership of the LGPS, would the authority have to auto-enrol the employee into a Personal Account and make an employer contribution? Well, following the provisions in sections 3 and 4 of the Pensions Act 2008, paragraph 53 of the [DWP consultation on the draft Pensions \(Automatic Enrolment\) Regulations 2009](#) provides that employers can postpone the automatic enrolment of employees for up to 90 days.

This is out of step with the rules of the LGPS which deny access to those employed for less than 3 months (not 90 days) and is out of step with regulation 23(1)(d) of the Stakeholder Pension Schemes Regulations 2000 [SI 2000/1403] which exempts employers from having to provide access to a Stakeholder pension scheme for any employee who has been employed by the employer for a continuous period of less than three months. So, either:

- a) the draft Pensions (Automatic Enrolment) Regulations 2009 need to be amended to refer to 3 months, or
- b) the LGPS regulations would need to be amended to only exclude members employed for 90 days or less.

The Secretariat will be making representations in favour of (a) above.

Either approach would mean that a local authority would not have to be concerned with Personal Accounts.

CLG Consultation - governance

CLG have also issued a letter, dated 13 May 2009, inviting the views of interested parties on how best to extend the current high standards of member and other non-elected stakeholders' participation and active involvement in the governance of the Scheme and how future improvements could be made in the interests of all stakeholders. The closing date for responses is 30 September 2009.

Bits and Pieces

Circular 229

The Secretariat has issued [Circular 229](#) which announced that a Longevity Seminar will be held in London on 29 June and that this year's Trustees' Annual Conference will be held in Cardiff on 22 and 23 October. The Circular also provided details of the Trustees' Fundamentals training available during October to December 2008 in Cardiff, Leeds and London. Details of the Seminar, Conference and training events are contained in the Circular together with information on how to book as a delegate on line.

Timeline Regulations

The May 2009 update of the [Timeline Regulations](#) website included:

- a new set of the LGPS Regulations 2007/2008 to incorporate the minor changes contained within the LGPS (Amendment) Regulations 2009 (SI 2009/1025);
- SI 2009/1025 and an explanatory letter from CLG, which have been added to the Statutory Instrument page;
- the guidance CLG issued in respect of AVC Service Credits, and version 1.3 of the Actuarial Factors for Individual Cash Equivalents and Club Transfers;
- the letter CLG issued in respect of interfund adjustments where the date of election occurs after 31 March 2009;
- the second edition of the ill health FAQ document, which has been added to the Statutory Guidance / FAQs page; and
- SPN/LG Circular NO.2 /2009, which has been added to the Scottish Statutory Guidance and Circulars page.

LGPC Communications

The full guide on the New Look LGPS for employees in Scotland is now available on the LGE website. The guide is provided in both a booklet format and split into individual leaflets, so that administering authorities can use it as they wish.

The DVD/CD-Rom on the LGPS in England and Wales has been updated for April 2009 and master copies have been sent to administering authorities in England and Wales. An updated version for loading onto intranet / internet sites will follow.

The English and Welsh guides for employees have been reviewed and updated for April 2009. The updated guide is now provided in both a booklet format as well as split into individual leaflets to help

administering authorities use the guide as they wish. The Promotional and Brief Guides for employees in England and Wales have also been updated. [These are now available on the LGE's website.](#)

In both the guide for Scotland and the guide for England and Wales a paragraph on the introduction of a special annual allowance charge from 22 April 2009 based on information available at the end of April 2009 has been added into the "Tax Controls and your LGPS Benefits" leaflet/section.

Other items

In addition to more detail on all the items covered in this summary version, [the full version](#) of Bulletin 58 contains information on the following topics:

- LGPS 2008 – Interfund Adjustments;
- LGPS – Payment of GMPs;
- LGPS – Divorce or dissolution of civil partnerships;
- Trivial Commutation – easement of administration;
- Authorised payments;
- HMRC – Guidance for pension and annuity payers;
- HMRC – Accounting for Tax form;
- HMRC – Mid-year tax repayment; and
- CLG consultation – the draft LGPS (London Pension Fund Authority) Regulations 2009

Useful Links

[The LGE Pensions page](#)

[The LGPS members' website](#)

[LGPS Discretions](#) lists all the potential discretions available within the LGPS in England and Wales, and Scotland.

[Qualifying Recognised Overseas Pension Schemes](#) approved by HMRC and who agreed to have their details published.

[Tax Guide \(Version 11\)](#)

[The Timeline Regulations](#)

LGPC Contact Details

Terry Edwards (Head of Pensions)

Telephone: 01954 202 787 or 0207 187 7346

Email: terry.edwards@lge.gov.uk

Tim Hazlewood (LGPC Training & Development Manager)

Telephone: 01530 242 777

Email: tim.hazlewood@lge.gov.uk

Irene Wass (LGPC Communications Officer)

Telephone: 01246 414 902

Email: irene.wass@lge.gov.uk

Elaine English (LGPC Executive Officer)

Telephone: 0207 187 7344

Email: elaine.english@lge.gov.uk

Dave Friend (LGPC Pensions Adviser)

Telephone: 01457 859 016

Email: david.friend@lge.gov.uk

Alison Hazlewood (Part-time Administration Assistant - Training & Development)

Email: alison.hazlewood@lge.gov.uk

Distribution sheet

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

Copyright

Copyright remains with Local Government Employers (LGE). This Bulletin may be reproduced without the prior permission of LGE provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

Disclaimer

The information contained in this Bulletin has been prepared by the LGPC Secretariat, a part of LGE. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by LGE for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Bulletin. Whilst every attempt is made to ensure the accuracy of the Bulletin, it would be helpful if readers could bring to the attention of the Secretariat any perceived errors or omissions. Please write to:

LGPC
Local Government Employers
Local Government House
Smith Square
London, SW1P 3HZ

or email: david.friend@lge.gov.uk
tel: 01457 859016