

The Local Government Pensions Committee
Secretary: Terry Edwards

CIRCULAR

Please pass on sufficient copies of this Circular to your Treasurer/Director of Finance and to your Personnel and Pensions Officer(s) as quickly as possible

No. 202 – JUNE 2007

WITHDRAWAL OF GAD PASSPORTS

Purpose of this Circular

1. This Circular has been issued to bring to the attention of authorities the note and Q & A sheet issued by the Government Actuary's Department signalling the withdrawal of GAD passport certificates i.e. withdrawal of certificates showing that a contractor's pension scheme is broadly comparable to the Local Government Pension Scheme.
2. The note and Q & A sheet are attached.

Actions for administering authorities

3. Administering authorities 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=71952>

Terry Edwards
Head of Pensions
June 2007

Important notice for immediate action

Government Actuary's Department: Validity of GAD passports Local Government Pension Scheme passports in England and Wales

Passport certificates of broad comparability are issued by the Government Actuary's Department (GAD) to assist in the letting of contracts by public bodies which involve the transfer of employees from the public service. Passports are issued by reference to the provisions of the relevant public service pension scheme as they apply at the time of issue. The wording of the passport provides that the passport remains valid only for such time as the provisions of the public service scheme remain materially unchanged.

Regulations have now been made which provide for significant changes to the Local Government Pension Scheme (LGPS) in England and Wales. Similar regulations are due to be issued for the LGPS in Scotland.

All GAD Certificates of Broad Comparability for the LGPS issued before 26 April 2007 therefore cease to have validity for any transfer of staff covered by LGPS in England and Wales taking effect after that date.

Such certificates are no longer valid for such staff transfers and should not be presented to, nor accepted by, contracting authorities.

This blanket withdrawal is necessary as the terms of the Local Government Pension Scheme (England & Wales) have been amended. The confirmatory regulations (SI2007/1166) were laid on 4 April 2007. Although the terms of the LGPS are not due to change until 1 April 2008 the changes would have affected all transferring members had they continued in public sector employment beyond that date. The principles for assessment of broad comparability as set out in our Statement of Practice www.gad.gov.uk/Publications/PPP_PFI require recognition of such known future changes in the broadly comparable assessment process.

From work GAD has undertaken so far we expect the majority of contractors will need to make changes to their schemes in order to continue to meet the broadly comparable test. Although there will be no requirement to mirror the differing accrual (and other) bases applying for service before and after April 2008 in the LGPS, contractors should be aware that GAD will take account of new LGPS basis from 1 April 2008 (ie 60ths accrual with cash by commutation and earning related member contribution rates) as part of the assessment.

A comparison of the key features of the new and old style LGPS can be found on the GAD website www.gad.gov.uk . Further details of the LGPS changes can be found at www.lgps.org.uk.

We are writing separately to each contractor and are also notifying local government associations, consultants, trade bodies and other stakeholders of the passport withdrawal. Contractors seeking to replace withdrawn certificates should contact their normal GAD actuary or enquiries@gad.gov.uk . Contractors will need to formulate proposals for modifying their schemes before progress towards replacement can commence.

We appreciate that this action will create some practical difficulties for imminent transfers. We envisage contractual terms may need to provide for some after transfer work on agreeing pension terms for service from 1 April 2008. Contracting authorities or others may wish to appoint GAD to give advice in this context although we have no statutory remit over such work. Parties wishing to engage GAD in this capacity should contact Sue Vivian (sue.vivian@gad.gov.uk or 0207 211 2657) in the first instance.

National Health Service Pension Scheme and Principal Civil Service Pension Scheme passports

Both the National Health Service Pension Scheme and the Principal Civil Service Pension Scheme are also currently under review and we expect similar action will be necessary in respect of passports for these schemes in the near future.

Andrew Johnston
Deputy Government Actuary
16 May 2007

Withdrawal of GAD LGPS (E&W) passports – Q & A

What has happened

Regulations were laid by Parliament on 4 April 2007 which will implement changes affecting all LGPS members in England and Wales from 1 April 2008.

These regulations define the form of future pension provision under the LGPS. Although some small amendments may be made before the scheme comes into effect next year

Why does this mean GAD LGPS passports have been withdrawn?

Government's Fair Deal policy statement sets out the protections to the pensions of staff if they move with their workforce from the public to the private sector. This requires contractors to provide transferring staff with access to a broadly comparable pension scheme or continuing access to the LGPS. A broadly comparable scheme is one which in the opinion of a qualified actuary provides that no identifiable employees will suffer material detriment overall in terms of their future accrual of benefit when compared to the public service scheme.

GAD issued a statement of practice in 1999 describing the principles and method it uses to assess broad comparability. For schemes which satisfy these conditions we are able to provide an actuarial opinion that they meet the test of board comparability above.

The key comparator of GAD's assessment is the expectations of staff under the public service scheme. Where material changes are made to the public service scheme which affect member's future expectations under this scheme then our opinion must be reassessed. The regulations laid in April 2007 made such changes to members' future expectations in the LGPS. Actuarial opinions we had given previously did not take account of the changes and are therefore no longer appropriate for new transfers of staff where broad comparability applies. This is why GAD LGPS passports have been withdrawn. All our passports incorporate a clear warning of this possibility.

How will employees who are going to be transferred be affected?

Employees will continue to have their pensions expectations protected. They will retain pension rights broadly comparable to the LGPS or will have continued access to LGPS. However, broadly comparable pension terms will reflect the changes employees would have expected in their pension arrangements had they remained in public service.

The new LGPS will take effect from 2 April 2008 so why change passports now?

The assessment of broad comparability is based on the value of the expected pension package over the future working life of employees concerned. The changes to LGPS will affect current staff as well as new recruits from April 2008. The regulations change the prospective pension package for everyone now. So the new scheme has to be included in broad comparability assessment immediately.

Why have passports been withdrawn with effect from 26 April 2006?

Although regulations were laid before Parliament on 4 April the DCLG circular assessing that event reached GAD and other stakeholders in local government on or around 26 April. GAD took the view that it was reasonable to assume that there was general awareness of the regulations from that date. This would be a reasonable date from which to effect change without unnecessarily disadvantaging employees, contractors or contracting authorities already in the process of letting contracts.

Why weren't GAD passports withdrawn following the September (December) 2006 changes to LGPS whereas they are being withdrawn now?

The changes which were implemented in 2006 affected normal pension age and the phasing out of the 'Rule of 85'. These were such that our opinion on broad comparability could not be invalidated if the contractor's scheme remained unchanged so we had no reason to withdraw passports.

In practice many contractors approached us to undertake a reassessment as they planned to make changes in line with the LGPS.

The new LGPS incorporates a range of changes which alter the balance of benefits between scheme members. A broadly comparable scheme needs to provide that no identifiable employee will suffer material detriment overall in terms of their future accrual of benefit when compared to the public service scheme. The rebalancing of benefits, and employee contributions, in the new LGPS make it necessary to reassess comparability.

How does this affect existing contracts?

The test of broad comparability is carried out at the point staff transfer and is concerned with future benefit accrual. There is no ongoing obligation on contractors to maintain comparability with the public service comparator scheme in the event of changes being made. The withdrawal of GAD passports therefore has no implications for contracts already in force or employees who have already been transferred to contractors' schemes.

How does this affect contracts which are currently being negotiated?

Contractors will need to contact GAD to explore ways in which their scheme can be modified to allow it to continue to meet the broad comparability criteria. We are not able to provide general guidance on what changes may be appropriate as much will depend on the structure, of each contractor's scheme. We expect changes to be relatively straightforward with new passports being issued quickly. Depending on time constraints this may require some contractual provision for post transfer agreement or pension terms.

The GAD certificates were withdrawn on 16 May with retrospective effect to 26 April. How does this affect contracts where the transfer of staff took place between 26 April and 16 May?

In withdrawing its current passports, GAD is saying that the opinions it has given that contractors schemes met the broadly comparable test are no longer valid for future staff transfers. Contracting authorities are responsible for deciding how the board comparability should be met. A number of approaches are possible and contracting authorities are likely to wish contractors to obtain revised passport certificates within a given timescale.

How does it affect contractors generally?

Contractors who wish to re-obtain a valid passport should contact GAD to explore ways in which their scheme can be modified to allow it to continue to meet the broad comparability criteria. We are not able to provide general guidance on what changes may be appropriate as much will depend on the structure of the contractor's scheme.

Won't this be costly and time consuming?

The passport system is very efficient and effective means for all parties to be assured that the broad comparability requirements are being met. There will be some costs for contractors wishing to re-obtain a valid passport. However, this should be limited as schemes should generally only require minor changes. New interim passports can be issued within a matter of days if reasonably complete proposals consistent with our statement of practice are submitted to us.

Does this affect LGPS Scotland passports?

No. The test for broad comparability in Scotland will remain unchanged until such time as regulations are laid to give effect to any changes. Existing passports remain valid and new ones will continue to be issued based on the currently LGPS arrangements in Scotland.

Contractors tendering for local government business across Great Britain may wish to hold separate passports for England and Wales and for Scotland. Contracting authorities should make sure that the appropriate LGPS passport is being used.

Are other GAD passports affected?

Both the National Health Service Pension Scheme and the Principal Civil Service Pension Schemes are also currently under review and we expect similar action will be necessary in respect of passports at the appropriate time.

Require more information?

Your usual GAD contact will be able to provide advice and assistance. Or email us at pensions@gad.gov.uk

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