

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 54S – January 2009

As stated in the previous Bulletin, the Secretariat is committed to publishing Bulletins on a regular monthly basis. The item on transfers in Bulletin 53 has been reproduced in this Bulletin to include the clarifications contained in the e-mail from the LGE issued on 12 January. 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.

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The LGPS 2008 – Statutory Guidance on Ill-health

On 24 November 2008, CLG issued the Statutory Guidance on the application of the ill-health provisions contained in the Benefits Regulations for England and Wales. A copy of the guidance can be downloaded from the Timeline Regulations section of the LGE website (www.timeline.lge.gov.uk).

LGPS 2008 – Contribution Bands with effect from 1 April 2009

CLG issued a letter on 13 January 2009 which contained the uplift of the contribution bands for England and Wales that will apply from 1 April 2009.

The table listed in regulation 3(2) of the LGPS (Benefits, Membership and Contributions) Regulations 2008 (as amended) will have the following values from 1 April 2009.

| Band | Range | Contribution Rate |
|------|-------------------|-------------------|
| 1 | £0 - £12,600 | 5.5% |
| 2 | £12,601 - £14,700 | 5.8% |
| 3 | £14,701 - £18,900 | 5.9% |
| 4 | £18,901 - £31,500 | 6.5% |
| 5 | £31,501 - £42,000 | 6.8% |
| 6 | £42,001 - £78,700 | 7.2% |
| 7 | More than £78,700 | 7.5% |

The letter from CLG will be added to the Statutory Guidance / FAQs page of the Timeline Regulations section on the LGE website.

The LGPS - Early Payment of Deferred Pension on the grounds of ill-health

Justice Lewison of the High Court handed down a decision on 18 December 2008 in the case of *Hamilton v Monmouthshire CC*. Mr Hamilton was appealing against a decision taken by the deputy Pensions Ombudsman on 11 August 2008. The deputy Pensions Ombudsman had determined that Mr Hamilton was not entitled to an ill-health pension under regulation 27 of the 1997 Regulations (because the reason for cessation of employment was, on the facts of the case, not permanent ill health, but the ending of a fixed-term contract), but was entitled to elect for early payment of deferred benefits under regulation 31.

Mr Hamilton was, for the purpose of his appeal, relying on the decision of Justice Lightman in *Spreadborough v Wandsworth LBC* which put back the date of entitlement to early payment of a deferred benefit from the date of application / diagnosis to the (earlier) date of onset of the medical condition. Justice Lightman's decision was based on the construction of regulation D11 of the 1995 Regulations which permits the backdating of payment of a deferred pension to the date the member first became permanently incapable of discharging efficiently the duties of their former job by reason of ill health or infirmity of mind or body.

In upholding the decision of the deputy Pensions Ombudsman, Justice Lewison made it clear that decision in *Spreadborough v Wandsworth LBC* did not extend to regulation 31 of the 1997 Regulations as this regulation is constructed differently to regulation D11 of the 1995 Regulations. Under regulation 31 of the 1997 Regulations (or regulation 31 of the Benefits Regulations 2007), deferred benefits can only be paid on the grounds of permanent ill health or infirmity of mind or body from the date of the member's application or, if later, the date of the onset of the permanent ill health or infirmity of mind or body which would prevent the member from discharging efficiently the duties of

their former job. Payment of the deferred benefit cannot be backdated to a date prior to the date of the member's application, even if the permanent ill health or infirmity of mind or body arose after leaving but before the date of application.

CLG Consultation Exercises

The CLG issued a covering letter on 27 November 2008 regarding the latest stage of the consultation exercise on sustaining the LGPS in England and Wales. The closing date for this consultation was 23 January 2009. The LGPC has submitted a written response to the consultation. This can be viewed on [the LGE website](#).

On 28 November 2008, CLG sent out a covering letter and a draft SI in respect of the LGPS (Miscellaneous) Regulations 2009. The closing date for this exercise is 20 February 2009. The LGPC will be submitting a response to the draft SI.

Redundancy Payments

The Employment Rights (Increase of Limits) Order 2008 [SI 2008/ 3055] comes into force on 1 February 2009. It increases the maximum "week's pay" for calculating a statutory redundancy payment from £330 per week to £350 per week where the appropriate date falls on or after 1 February 2009. In the case of entitlement to a redundancy payment by virtue of section 135(1)(a) [dismissal by reason of redundancy] or section 135(1)(b) [lay-off or short time] of the Employment Rights Act 1996, the appropriate date means the relevant date as defined by, respectively, sections 145 or 153 of the Act.

Bits and Pieces

LGPC Circulars

Last month, the Secretariat issued [Circular 219](#) as a final reminder that hard copies of circulars will no longer be distributed and that, in future, all Circulars will be notified by e-mail. Employers wishing to be added to the e-mail distribution list should notify colin.divens@lge.gov.uk of the e-mail address(es) they wish Circulars to be sent to. The Secretariat will accept up to a maximum of 3 designated e-mail addresses per organisation. Employers wishing to amend the e-mail address(es) to which Circulars are sent should provide the appropriate details to colin.divens@lge.gov.uk.

[Circular 220](#) detailed the Secretariat's understanding of the eligibility of casuals to join or remain in membership of the LGPS in Scotland from 1 April 2009 onwards.

[Circular 221](#) was an update to [Circular 212](#) and contained the latest version of the suite of ill-health certificates for use in England and Wales.

[Circular 222](#) contained the results of the survey, undertaken in July 2008, of the provision of benefits for councillors in the local government pension schemes in England, Wales and Scotland.

[Circular 223](#) advertised forthcoming training courses on, firstly, transfer values and, secondly, employer's discretions and polices.

Timeline Regulations

Since the publication of the previous Bulletin, the Timeline Regulations on the LGE website have been updated to correct a few minor faults. The Timeline Regulations were updated on 22 January to take

account of The LGPS (Administration) (Amendment) Regulations 2008 (SI 2008/3245) and the latest correspondence from CLG on transfers.

Other items

In addition to more detail on all the items covered in this summary version, [the full version](#) of Bulletin 54 contains information on the following topics:

- the latest on the calculation of cash equivalent transfer values
- statutory guidance on governance compliance
- the overpayment of public sector pensions
- the new P46(Pen) form
- the prospect of negative RPI
- a reminder that employees wishing to register for primary or enhanced protection with HMRC need to do so by 5 April 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](#)

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