

The Local Government Pensions Committee
Secretary: Terry Edwards

CIRCULAR

No. 226 – FEBRUARY 2009

COMMUNICATING THE NEW LOOK LGPS IN SCOTLAND

Purpose of this circular:

1. This Circular has been issued to complement Circular 224 and provides authorities in Scotland with a sample letter notifying scheme members of the pension contribution rates that will be applicable from 1 April 2009.
2. This Circular does not apply to authorities in England and Wales.

Notifying new contribution rate and right of appeal

3. Circular 224 included details of the scheme member contribution rates that will apply from 1 April 2009.
4. Paragraph 5(o) of version 2 of the Statutory Guidance on contribution rates (which is available at http://www.sppa.gov.uk/local_gov/documents/LGPSCircular20091-StatutoryGuidance.pdf) says:

“Employers must notify scheme members of their contribution rate as soon as reasonably practicable after it has been determined. A similar notification must also be issued to the appropriate administering authority. ***Employers must satisfy themselves that scheme members are aware of their rights of appeal.***”

5. In the absence of any standard letters or leaflets to send to Scheme members, employers may wish to use the draft letter and explanatory leaflet attached to this Circular (at Annex 1) but employers should check with their Pension Fund administering authority first as the administering authority may have other letters, leaflets or forms that they would prefer the employer to use.

6. Any appeal by a scheme member who believes an incorrect amount of contributions is being collected would be made under the LGPS Internal Dispute Resolution Procedure (IDRP). At stage 1 of the IDRP the scheme member would appeal to the person appointed to hear stage 1 appeals. If the appointed person does not agree with the appellant and turns down the appeal, the appellant has the right to refer the complaint to Stage 2 i.e. for reconsideration by the Scottish Ministers. If the appeal fails at Stage 2, the person then has the right of appeal to the Pensions Ombudsman.
7. As now, employers will be required to send a statement to the Pensions Section of the contributions deducted from employees (perhaps monthly or annually, depending on the procedures of the administering authority). However, that statement must now show:
 - the name, pay and band¹ of each person² who is a scheme member
 - which members are paying Additional Regular Contributions (ARCs) and / or Additional Voluntary Contributions (AVCs) or Shared- Cost AVCs (SCAVCs)
 - the amounts which represent deductions from the pay of each of the scheme members and the periods covered by the deductions, distinguishing any amounts representing deductions for any voluntary contributions.

Unless the Pensions Section has already been in contact to confirm procedures, employers will need to liaise with the Pensions Section to confirm the specific processes the administering authority wishes employers to follow to notify the Pensions Section of employee contribution rates.

Actions for administering authorities

8. Administering authorities in Scotland may wish copy this Circular to employers in their Fund or bring the Circular to the attention of employers by directing them to the Circular on the LGE website.

Irene Wass
Communications Manager – Pensions
February 2009

¹ This is what regulation 38(3) of the LGPS (Administration) (Scotland) Regulations 2008 requires. However, given that, apart from those earning £18,000 or less, Scheme members will be covered by more than one band, Scottish Administering Authorities will need to consider how they wish the information to be provided on the statement and convey their decision to the employers participating in their Fund.

² Although regulation 38(3) of the LGPS (Administration) (Scotland) Regulations 2008 only refers to “employees”, the statement should also include the relevant details for councillors who are members of the Scheme.

Distribution sheet

Local authorities who have signed up for notification of Circulars
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
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Website

Visit the LGE's website at: www.lge.gov.uk

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SAMPLE NOTIFICATION LETTER

Dear

Local Government Pension Scheme

As part of a general review of public sector pension schemes, Scottish Ministers have introduced changes to the Local Government Pension Scheme (LGPS) in Scotland from 1 April 2009.

If you're already paying into the LGPS on 31 March 2009 and you continue to have a contract of employment or continue as a councillor on 1 April you are automatically transferred to the New Scheme.

This letter is to notify you that, from April 2009, you will no longer pay a standard contribution rate of 5% or 6% into the Scheme. Instead, a five tier contribution system is being introduced – with contributions based on how much of your pay falls into each tier. This has been designed to give more equality between the cost and benefits of scheme membership.

If you work part-time, your contribution rate will be worked out on the whole-time pay rate for your job / role, although you will only pay contributions on the pay you actually earn.

Here are the tiers from April 2009:

Whole time pay	Contribution rate (%)
On earnings up to and including £18,000	5.5%
On earnings above £18,000 and up to £22,000	7.25%
On earnings above £22,000 and up to £30,000	8.5%
On earnings above £30,000 and up to £40,000	9.5%
On earnings above £40,000	12%

The pay ranges will be increased each April in line with the cost of living.

Let's take a look at someone who works full-time at a pay rate of £22,000.

They'll pay 5.5% on their pay up to £18,000, and 7.25% on the next £4,000. That gives an overall contribution rate of 5.8% - around £106 a month in contributions.

If they were working half-time, they'd still pay the same contribution rate. That's because the whole-time rate for their job is still £22,000, but their contributions would be based on their part-time earnings, so instead they'd pay half - around £53 a month.

If you pay tax and National Insurance, you'll get tax relief on your contributions and pay a lower rate of National Insurance, so the actual cost to you is less.

Further, detailed, information on the operation of the new contribution rates is available in statutory guidance which is available at http://www.sppa.gov.uk/local_gov/documents/LGPSCircular20091-StatutoryGuidance.pdf If you wish, we can send a copy of the statutory guidance to you in the post.

If, from April 2009, you believe that, based on your whole-time equivalent pay rate, we are deducting an incorrect amount of contributions you should raise the matter with us for investigation. If, having received clarification from us, you are not happy with the response you would have the right of appeal under the pension scheme's Internal Dispute Resolution Procedure. A leaflet explaining the appeal process is attached* / can be obtained from

Please note that if you are currently paying any additional contributions (for example, to purchase extra years of scheme membership) or are currently paying Additional Voluntary Contributions (AVCs) these contributions will continue to be collected and are not affected by the change to the standard pension contribution rate.

Please contact if you have any queries.

Yours sincerely

* delete as appropriate

The Local Government Pension Scheme – Appeals Procedure

Introduction

This guide is to help you understand the procedures for settling any disagreement or complaint you may have about decisions your employer or the Authority that administers the Local Government Pension Scheme (the Scheme) have made about you or your benefits under the Scheme. XXX Authority administers the Scheme and throughout this guide is referred to as the Administering Authority. The address of the Administering Authority is

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Decisions

From the day a person starts a job with an employer, to the day benefits or dependant's benefits are paid, the employer and the Administering Authority have to make decisions under the Scheme rules that affect you.

What to do when you are notified of a decision

When you (this includes dependants) are notified of a decision you should check, as far as you can, to see if you think it is based on the correct details and that you agree with it.

What to do if you are unhappy with a decision

It is normally a good idea to make an informal enquiry in the first place. Most problems can be resolved in this way. They are often caused by misunderstandings or wrong information, which can be explained or put right quickly and easily by the employer or the Administering Authority. So we suggest that you either telephone the number on the letter or form which your employer or the Administering Authority sent to you notifying you of their decision.

If, having done so, you remain unhappy with the decision (or the lack of one) then, under Stage 1 of the Internal Dispute Resolution Procedure, you have the right to have the decision looked at afresh by a person nominated by the body who took the decision against which you wish to appeal. In this guide we refer to that person as the "nominated person". The job title and address of the "nominated person" are:.....

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If you are not happy with the "nominated person's" decision at Stage 1 you can then appeal to the Scottish Ministers to have your case reviewed afresh at Stage 2 of the Internal Dispute Resolution Procedure. At either stage you will be able to contact The Pensions Advisory Service, 11 Belgrave Road, London, SW1V 1RB, Telephone 0845 601 2923 who will be able to assist you with any difficulty that remains unresolved. If you are unhappy following the Scottish Ministers' Stage 2 decision, you can then take your case to the Pensions Ombudsman.

A full guide to the dispute resolution procedure is available by writing to

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The full guide provides detailed information on the dispute procedure and contains the relevant forms to use. There is no charge made for investigating any complaint at any stage under the dispute rules – the only expenses you will have to meet are those of your own (or your representative's) time, stationery and postage.

Are there any time limits I should be aware of?

Yes. If you wish to use the dispute rules you must make your application to the "nominated person" within 6 months after you were notified of the decision you are complaining about. If your complaint is that a decision has not been made, you must make your application within 6 months of the time the decision ought to have been made. You should not, therefore, leave things too long before making your application to the "nominated person". That person can extend the 6 months time limit for a reasonable period if he / she considers that it is reasonable to do so.

The "nominated person" should give you a decision within 2 months of receiving your written complaint or write to you at the end of 2 months telling you the reasons for a delay in reaching a decision and giving you the date when he / she expects to be able to let you know the outcome.

If you get neither a letter giving the "nominated person's" decision nor a letter giving the reason for a delay within 3 months of the date you made the application, or if you don't receive the

“nominated person’s” decision within 1 month of the date he / she said he / she expected to give you a decision, you can apply directly to the Scottish Ministers without waiting any longer (see below).

What power does the “nominated person’s” decision have?

The “nominated person’s” decision is binding on you, the employer and/or the Administering Authority unless you disagree with the Stage 1 decision and make an appeal to the Scottish Ministers at Stage 2 of the process. This means that if the “nominated person’s” decision is contrary to the decision originally taken by your employer or by the Administering Authority they must either deal with your case on the basis of the decision made by the “nominated person” or, where the decision relates to the exercise of a discretion by the employer or the Administering Authority, the employer or Administering Authority will be required to reconsider its decision.

Appeal to the Scottish Ministers (Stage 2 of the process)

If you are unhappy with the “nominated person’s” decision, you can ask the Scottish Ministers to take a further look at the facts of the case. Such a request must be made within 6 months of the date of the “nominated person’s” decision letter. If the “nominated person” has failed to make a decision and has not issued you with an interim reply within 3 months of the date of your appeal application, you then have 6 months from the end of the initial 3 month period within which to lodge an appeal with the Scottish Ministers. If the “nominated person” has issued you with an interim reply but does not issue a determination within 1 month of the date he / she said he/she would, you then have 6 months after the end of that 1 month period within which to lodge an appeal with the Scottish Ministers.