

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 55S – February 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 – Rule of 85 Protection](#)
[LGPS - Draft \(Miscellaneous\) Regulations 2009](#)
[LGPS – Draft \(Amendment\) Regulations 2009](#)
[LGPS \(Scotland\) – Assessment of Member Contribution Rates](#)
[Flexible Retirement and Pension Provision](#)
[LGPC Communications Update](#)

This month [Bits and Pieces](#) includes items on recent [LGPC Circulars](#) and, [the Timeline Regulations](#).

Rule of 85 Protections

The position as set out in LGE [Circular 193](#) explained CLG's position at that time i.e. that the member must have been an **active member** immediately before 1st October 2006 in order for the protection to apply. However, during the discussions on the 2008 Scheme, this line was changed and paragraph 6 of Schedule 2 to the LGPS (Transitional Provisions) Regulations 2008 now says that the person only had to have been a **member** before 1st October 2006 i.e. the person could have been an active member at 30th September 2006 or a deferred member at that date.

It says that the 85 year rule protection applies where a member

- was a member before 1st October 2006, and
- left / leaves the LGPS before, on or after 1st October 2006 (i.e. so the person did not have to be an **active** member on 30th September 2006); and
- rejoins the scheme before the "relevant date"

Paragraph 2 of Schedule 2 to the LGPS (Transitional Provisions) Regulations 2008 defines the relevant date as:

- (a) in the case of a member who will be aged 60 or more on 31st March 2016, the earlier of—
 - (i) 1st April 2016, and
 - (ii) the date on the day after the day on which the member leaves local government employment; or
- (b) in any other case, 1st April 2008.

Paragraph 6(1)(b) of Schedule 2 to the LGPS (Transitional Provisions) Regulations 2008 should, of course, be amended to specify that the "relevant date" is that referred to in (a)(i) and (b) above only and not to (a)(ii) above (as the inclusion of (a)(ii) produces a nonsensical result).

Assuming that amendment is made, the above would appear to produce the following results.

1. A member (active or deferred) at 30th September 2006 who rejoins the scheme before 1st April 2008, or before 1st April 2016 if he/she would be 60 or more by 31st March 2016, and who aggregates membership will have a protected CRA (although if there was a break in employment the CRA will shift backwards upon aggregation).

2. A member (active or deferred) at 30th September 2006 who rejoins the scheme before 1st April 2008, or before 1st April 2016 if he/she would be 60 or more by 31st March 2016, and who does not aggregate membership will have the original protected CRA on the unaggregated membership but an age 65 NRD (i.e. no earlier CRA) on the new membership.

3. A member (active or deferred) at 30th September 2006 who rejoins the scheme after 31st March 2008, or after 31st March 2016 if he/she would be 60 or more by 31st March 2016, and who aggregates membership will lose their right to a protected CRA and all membership will have an NRD of 65. This seems rather harsh but it is what the regulation appears to say, although whether this is the policy intention is not clear.

4. A member (active or deferred) at 30th September 2006 who rejoins the scheme after 31st March 2008, or after 31st March 2016 if he/she would be 60 or more by 31st March 2016, and who does not aggregate membership will have the original protected CRA on the unaggregated membership but an age 65 NRD (i.e. no earlier CRA) on the new membership.

5. A member who was not active or deferred at 30th September 2006 does not have any entitlement to a CRA. All benefits have an NRD of 65.

Scenario 3 appears to be at odds with the relevant GAD guidance and does not feel entirely correct. The Secretariat has therefore asked CLG to consider whether the above interpretation is correct and, if so, whether any clarifying amendments are required. Further details are contained in [page 21 and 22 of the LGE's response to the draft LGPS \(Miscellaneous\) Regulations 2009](#).

Draft LGPS (Miscellaneous) Regulations 2009

On 28 November 2008, CLG issued a letter and draft amendments to the LGPS Regulations 1997, to the current Benefits Regulations, Administration Regulations, Transitional Provisions Regulations and the Discretionary Compensation Regulations. The LGE / LGPC has issued [a response](#) to the draft regulations. The response also includes a list of;

- a) all the matters where the scheme regulations may need clarification or amendment,
- b) the GAD guidance that the Secretariat thinks is still outstanding,
- c) those bits of the current GAD guidance which the Secretariat thinks need clarification or amendment.

Draft LGPS (Amendment) Regulations 2009

On 27 November 2008, CLG issued a letter and draft amendments to the LGPS Regulations in England and Wales. These deal with a number of administrative aspects of the proposed cost sharing mechanism. The LGE/LGPC has issued [a response to the consultation](#).

LGPS (Scotland) – Assessment of Member Contribution Rate

On 12th February, SPPA issued [circular 2009/1](#) to accompany the updated information contained in [version 2 of the Statutory Guidance](#) in respect of the assessment of members' contribution rates for the new LGPS in Scotland. It is important to note that this version replaces version 1 of the Statutory Guidance which was issued under Circular 2008/3 in June 2008.

Flexible Retirement and Pension Provision

[The DWP has issued its proposals](#) for draft regulations to provide exemptions designed to overcome concerns employers have over the age discrimination legislation and its interaction with flexible retirement.

The LGPS is not really affected by the proposals as the Scheme already permits employees to continue contributing post flexible retirement and to accrue additional membership / benefits right up to age 75. During that time they are covered for all benefits, including death in service benefits.

Communications Update

The New Look LGPS in Scotland

- The LGPC has produced a DVD and CD-Rom explaining the new scheme and how existing scheme members are affected by the changes. Master copies of the DVD and CD-Rom were sent to all LGPS Pension Fund administering authorities in Scotland in January. It will be for each administering authority to decide how best to use the DVD and CD-Rom as part of their communication strategy with scheme members and employers. A version for loading onto intranet / internet sites has also been sent to the administering authorities in Scotland.
- The LGPC has also updated the Promotional Guide and the Brief Guide to the LGPS to cover the provisions of the Scheme for employees in Scotland from 1 April 2009. [These are available on the Local Government Employers' website.](#)
- Circular 224 has been issued to provide administering authorities in Scotland with a Newsletter which they may wish to utilise to help communicate the New Look LGPS in Scotland to employees in the run up to April 2009, and Circular 226 provides authorities in Scotland with a sample letter notifying scheme members of the pension contribution rates that will be applicable from 1 April 2009.
- [The "Latest" pages on the LGPS members' website have also been updated with information on the new scheme](#) with the relevant pages in the main body of the site linked into this information.
- We are currently working on producing an updated Employees' Guide to the LGPS in Scotland. The new guide is in sections, so that administering authorities can use the guide for a composite booklet or for separate leaflets as they wish. We are also working on updating the LGPS members' website. It is planned that that these will be ready for April 2009.

The LGPS in England and Wales

- The LGPC will be producing an updated version of the DVD and CD-Rom presentation for administering authorities in England and Wales. In the updated version, the "Introduction - Why the Scheme is Changing" section will be cut, the "Overview of the LGPS from 1 April 2008" section will be updated with the 2009 pay bands, and the "Questions & Answers for existing members" section updated to contain only those Questions that are not fully dealt with in the "Overview" section. It is planned that this will be available late April 2009.
- The following sections of the Employees' Guide for England and Wales have been updated:
 - Choice and Joining** - updated response to "I'm already receiving an LGPS pension – will it be affected if I join again?"
 - Your LGPS retirement benefits** - updated response to "What If I get another job after I retire?"
 - Tax controls and your LGPS benefits** - correction to amount of fine for non-notification of loss of enhanced protection.

[The revised versions are on the LGE website.](#)

Bits and Pieces

LGPC Circulars

The Secretariat has issued three circulars since the previous bulletin was published. [Circulars 224 and 226](#) cover the topic of communicating the changes to the LGPS (Scotland) to members of the Scheme in Scotland. [Circular 225](#) advertises additional dates for the Understanding Employer Discretions and Policies training courses.

Timeline Regulations

The February 2009 update of the Timeline Regulations website included the addition of the LGPS Regulations 1995 for English and Welsh administering authorities. The SPPA circular on overpaid GMP entitlement, which was issued in December of last year, has also been added to the website. The update also includes an enhancement to the navigation within the website and to the hyperlinks to external documents.

Other items

In addition to more detail on all the items covered in this summary version, [the full version](#) of Bulletin 55 contains information on the following topics:

- divorce case deadlines
- the calculation of the maximum PCLS
- payment of Pension Credit members' benefits
- CIPFA investment report
- Pensions Act 2008
- HMRC draft Authorised Payments Regulations
- Reclaiming tax from the Netherlands
- Pensions Regulator guidance on retirement options for DC schemes' members

and 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](#)

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

Colin Divens (LGPC Executive Officer)

Telephone: 0207 187 7344

Email: colin.divens@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