

Local Government Pensions Committee  
Secretary, Jeff Houston

## **LGPC Bulletin 174 – July 2018**

Please contact [Jayne Wiberg](#) with any comments on the contents of this bulletin or with suggestions for other items that might be included in future bulletins.

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## LGPS England & Wales

### Exit credits – tax position confirmed

The LGPS (Amendment) Regulations 2018 introduced the requirement to pay an exit credit to exiting employers where, at the exit date, an employer's assets in the fund exceed the liabilities.

As confirmed in [bulletin 171](#), the tax position of an exit credit was initially unclear and MHCLG were seeking clarification from HMRC.

By way of background, section 207 of the Finance Act 2004 sets out the tax rules governing authorised surplus payments paid from a registered occupational pension scheme to a sponsoring employer. Any tax due, is paid under the Registered Pension Schemes (Authorised Surplus Payments) Regulations 2006 [SI 2006/574]. Regulation 3 of those regulations applies to those schemes that fall under section 37 of the Pensions Act 1995. However, section 37 of the Pensions Act 1995 only appeared to apply to trust based schemes, hence the reason for doubt as to whether or not an Exit Credit should be treated as an authorised surplus payment under section 207 of the Finance Act 2004, and taxed accordingly.

On 24 July 2018, we confirmed in an email to administering authorities that HMRC have made the pronouncement below in relation to exit credits payable to former scheme employers:

*"I can now confirm that there will be no tax charge on the payment and that there is no requirement for the scheme administrator of the pension scheme (or sub-scheme administrator of the sub-scheme) to report the payment to HMRC".*

### TPR 2017/18 Scheme return – conditional data

On 16 July 2018, Bob Holloway, secretary of the Scheme Advisory Board (SAB) informed administering authorities that the Government Actuary's Department has shared a comprehensive list of conditional data with the attendees of the five regional data quality/section 13 roadshows. The prevailing view was that the complete list of 84 data items, which comprised of around 60 items from the [Universal Data Extract \(UDE\)](#) (this is the version that the pensions software providers are working too), would entail a significant amount of additional coding by software providers and extra cost for administering authorities.

In a meeting with the Pension Regulator's (TPR) public service team, TPR confirmed that the first year of conditional data will, to a certain extent, be used as a tool to assess the current position of the scheme managers' data score. It will be used to assess the methodology adopted by each scheme in both selecting and measuring their conditional data. On that basis, in the first year, TPR are not overly concerned with consistency across all LGPS scheme managers.

In his email of 16 July, Bob Holloway asked for scheme managers' comments on adopting the UDE as a basis for completing the conditional data section of the forthcoming TPR administration and governance survey. It is appreciated that the UDE is essentially a tool used in connection with local fund valuations, so it would be helpful if any comments could include reference to any data items that are not on the

UDE but should be included in the conditional data list. The extended deadline for comments to [Bob Holloway](#) was 30 July 2018.

We understand that TPR will issue guidance on completing the survey in August 2018. The survey will be issued in September 2018 with a six-week turnaround for completion.

### Updates to bulletin 171

In May 2018, we published [bulletin 171](#) providing a commentary for LGPS administering authorities in England and Wales on the changes to the LGPS introduced by the Local Government Pension Scheme (Amendment) Regulations 2018 ([SI 2018/493](#)).

Since publication, we have made a number of clarifying amendments to the bulletin and have now published an updated version (dated July 2018). The updated version replaces the first version with the amendments shown in tracked changes.

### Updates to guides

Following the issue of the LGPS (Amendment) Regulations 2018 [[SI 2018/493](#)] by MHCLG in April 2018, the following documents have been updated and are available under [guides and sample documents](#) on [www.lgpsregs.org](http://www.lgpsregs.org)

- Discretionary policies (version 1.8)
- Discretions list (version 1.6)
- Underpin scheme administrator guide (version 1.8)
- Freedom and Choice – AVC technical guide (version 2.0)
- Freedom and Choice - AVC template letters (version 2.0)

Please note, as mentioned in [bulletin 171](#), the expansion of the underpin change is backdated to 1 April 2014. Administering authorities are reminded that they need to review past cases to determine if the underpin should have applied to benefits that are already in payment.

### Updates to timeline regulations

The timeline regulations pages on [www.lgpsregs.org](http://www.lgpsregs.org) have been updated to incorporate the Police, Fire and Crime Commissioner for Staffordshire (Fire and Rescue Authority) Order 2018 [[SI 2018/696](#)].

The Order comes into effect from 1 August 2018 and deals with the transfer of the fire and rescue function from Stoke-on-Trent and Staffordshire Fire Authority to Staffordshire PCC.

Regulation 11 modifies regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained) of the LGPS Regulations 2013 so that they are to be read as if after 64(8), new paragraphs (8A) and (8B) were inserted.

These paragraphs confirm that no exit payment is due where the exiting employer is the Stoke-on-Trent and Staffordshire Fire Authority and the liabilities of the fund in respect of the benefits due to the Stoke-on-Trent and Staffordshire Fire Authority's

current and former employees (or those of any predecessor authority) have been or are to be transferred to the Staffordshire Commissioner Fire and Rescue Authority under a transfer scheme made under section 4C of the Fire and Rescue Service Act 2004.

## LGPS Scotland

### **Draft Regulations - The Local Government Pension Scheme (Scotland) Pensions Amendment (Increased Pension Entitlement) Regulations 2018**

As reported in [bulletin 167](#), Scottish Ministers have decided that the approach to be taken concerning overpayments arising from the contracted-out reconciliation exercise should be in keeping with a similar [exercise](#) that took place in 2008/2009.

This means that any LGPS pension in payment affected by the contracted-out reconciliation exercise would not be reduced. The GMP related overpayment would be converted into an 'increased pension entitlement' (IPE) allowing the pension to continue at its existing level (the IPE will be an authorised payment for tax purposes because the scheme rules are to be amended – regulation 14(5) Registered Pension Scheme (Authorised Payments) Regulations 2009 [[SI 2009/1171](#)]).

On 12 July 2018, SPPA published a [consultation](#) to facilitate the above approach. There is at least one difference between the 2008/2009 approach to that within the 2018 consultation. In so much, that the IPE awarded following the 2008/2009 [exercise](#) was 'frozen' at the level of discovery, however, the 2018 consultation provides for 'annual indexation' to be applied to the IPE.

The consultation closes on 11 October 2018 and anyone wishing to respond must do so by that date. All of the documents have been uploaded to the '[Scheme consultations](#)' page of [www.scotlgpsregs.org](http://www.scotlgpsregs.org).

### **Letter of comfort – LGPS (Scotland) Regulations 2018**

Following the introduction of the 2018 Regulations [[SSI 2018/141](#)], SPPA identified a number of areas that required further clarification. In particular, a concern regarding the revocation of the LGPS (Scotland) 2014 Regulations [[SSI 2014/164](#)], which had the unintended effect of revoking rights and liabilities built up under the 2014 Regulations.

SPPA are working on a set of amendment regulations to correct the issues identified. Meanwhile, on 30 July 2018, they issued a [letter of comfort](#) to Scottish administering authorities, signed by Kate Forbes, Minister for Public Finance and Digital Economy, to cover the interim period between 1 June and the amendments coming into force.

### **SLGPS structure review consultation**

On 19 June 2018, the Scheme Advisory Board to the Scottish LGPS issued a [consultation](#) on how the Scottish Local Government Pension Scheme (SLGPS) should best be structured to serve its members and sponsors.

The consultation seeks to compare the advantages and disadvantages of the current scheme structure against three options that, by differing degrees, consolidate the functions of the scheme's 11 constituent funds by collaboration, pooling and merger.

The purpose of the consultation is to seek views on four possible options ranging from maintaining the status quo to full consolidation into one or more larger funds.

The consultation is open to LGPS employers and employee representative groups only. Responses should be made online by downloading and completing the consultation response form and returning this form to the [Pensions Institute](#) by 7 December 2018.

### Updates to timeline regulations

Following the publication of the consolidated LGPS (Scotland) Regulations 2018 [SSI2018/141] in May 2018, a [timeline version](#) of the new regulations is now available on [www.scotlgpsregs.org](http://www.scotlgpsregs.org).

## HMRC

### Contracted-out reconciliation – urgent action

In [countdown bulletin 24](#) (set out in [bulletin 156](#)) HMRC confirmed that the reconciliation exercise must be completed by December 2018 and that there will be no facility to raise queries after October 2018. Most importantly, HMRC also confirmed that the October 2018 deadline is for ‘follow up/final queries’, suggesting that it would not be appropriate to leave the submission of ‘first time around’ queries until October 2018.

Earlier this month the Secretariat met with HMRC who raised their concerns regarding the progress LGPS administering authorities are making towards the completion of the contracted-out reconciliation exercise. The statistics are set out in the table below.

Of particular concern are the 24 administering authorities who have raised less than 10% of queries, against the total membership HMRC have recorded as being eligible for reconciliation. As mentioned in countdown bulletin 24, the October 2018 deadline date, is for raising all queries, including follow up/final queries. Experience amongst the public service has shown that follow up queries are necessary, once the administrator receives their first batch of responses from HMRC. Essentially, this brings forward the deadline date for raising ‘first time around’ queries to HMRC.

We strongly urge administering authorities, who have yet to raise all of their ‘first time around’ queries with HMRC, to do so as a matter of urgency. Where the reconciliation exercise is not completed administering authorities are at risk of paying incorrect pensions (over and under payments) and retaining liability for GMP’s which may not belong to that authority.

<b>% of queries raised against HMRC recorded membership of LGPS Fund</b>	<b>No. of administering authorities</b>
0%	12
Greater than 0% and less than 5%	9
Greater than 5% and less than 10%	3

Greater than 10% and less than 30%	20
Greater than 30% and less than 50%	24
Greater than 50%	28

### Countdown bulletin 35

On 29 June 2018, HMRC published [Countdown bulletin 35](#) including articles on:

- scheme cessation guidance for Pension Scheme Administrators (PSAs)
- new automated solution for 2R local authority funds liability part period
- new automated solution for change of Responsible Paying Authority (RPA)
- Guaranteed Minimum Pension (GMP) checker

Of particular interest is the article concerning the new automated solution for recording liability for part periods of contracted out membership within the LGPS. Local authority pension funds use a generic contracted-out ECON (2R) and this has caused issues for HMRC when individuals have transferred between local authority jobs. HMRC membership records are not always recorded as separate periods, resulting in a continuous period incorrectly existing on their records. HMRC have implemented a solution that will interrogate the employer history for the HMRC period and, where it suggests the scheme membership is correct, the membership will be debited and re-input as separate periods accordingly. The input file deadline for scheme administrators of the LGPS to raise any queries with HMRC is **1 August 2018**.

### New automated solutions

HMRC have issued two new automated solutions:

- the [Change of Responsible Paying Authority automated solution](#) targets “Not In Scheme” (NIS) or “Was In Scheme” (WIS) queries.
- the [CEP Debit automated solution](#) is required to answer queries around memberships where a Contribution Equivalent Premium (CEP) method of preservation has incorrectly been added to a membership.

### Pension Schemes Newsletter 100

On 29 June 2018, HMRC published [pension schemes newsletter 100](#) including articles on:

- manage and register pension schemes service (see article in [bulletin 173](#))
- registering as a scheme administrator and applying to register a pension scheme
- transfers between registered pension schemes
- annual allowance calculator
- recognised overseas pension schemes (ROPS) notifications list
- taxation of flexi access payments

Of particular interest are the articles on:

- **Transfers** - where a member elects to transfer their pension savings to another registered pension scheme, the scheme administrator of the transferring scheme can ask HMRC for confirmation of a receiving scheme’s

registration status. HMRC will only confirm the registration status of a receiving scheme if both of the following apply:

- the scheme is registered
- HMRC does not hold information to suggest that there is a significant risk of the scheme being set up or being used to allow pension liberation.
- **Annual Allowance calculator** –the Annual Allowance calculator was moved back on line on 6 July 2018 (this was confirmed in an email circulated to administering authorities by the LGPC Secretariat on 13 July 2018).

## The Pensions Regulator (TPR)

### Beware cold-calls from fraudsters claiming to be from TPR

On the 17 July 2018, TPR published a [press release](#) concerning fraudsters who may be trying to steal the savings of workers by falsely claiming to be calling from TPR.

TPR has received reports of pension holders being cold-called by individuals who have posed as TPR staff offering the workers a 'free pension review'. TPR have confirmed that this is a common warning sign of a scam as TPR never cold-calls individuals about their pensions. TPR has reported the cases to the Information Commissioners Office (ICO) for investigation and will also report any future cases.

TPR has advised pension holders that if they are cold-called about their pension, or believe they could be the victim of pension fraud, to contact Action Fraud on 0300 1232040.

We recommend administering authorities bring the contents of this [press release](#) to the attention of their members.

## Other News and Updates

### The Pensions Ombudsman (TPO) newsletter

TPO has published the fourth edition of its stakeholder [newsletters](#). If LGPS funds have ideas for topics TPO could include in future newsletters, please contact [Mairi Spiby](#) (TPO).

## Training

### Circular 308

On 9 July 2018, we published [Circular 308](#) advertising our Understanding workshops on Transfers and 'Insight' residential course.

In September 2018, we will be running a series of "Transfers" workshops:

4 September	Leeds	Marriott Hotel
7 September	London	Victoria Park Plaza Hotel
11 September	Manchester	McDonald Hotel
13 September	Bristol	Double Tree Hilton Hotel
25 September	London	Etc Venues

Additionally, the 'Insight' residential training course will be held on 17 – 20 September 2018 in Blackpool. For information concerning how to book either of these events, please refer to [Circular 308](#).

### **Circular 309**

On 17 July 2018, we published [Circular 309](#) advertising the forthcoming 'Fundamentals' training programme aimed at pension committee and local pension board members. The programme runs from October to December 2018.

The circular also advertises the annual LGPS Governance Conference (formerly known as the "Trustees" Conference) being held in January 2019.

We would be grateful if administering authorities would bring the circular to the attention of all pension committee and local pension board members along with those who attend/advise the meetings, sub-committees etc.

The fundamentals training programme will be take place at three locations:

#### **Leeds**

Day 1	2 October 2018	Park Plaza Hotel
Day 2	6 November 2018	Park Plaza Hotel
Day 3	5 December 2018	Park Plaza Hotel

#### **London**

Day 1	10 October 2018	Park Plaza Hotel
Day 2	30 October 2018	Park Plaza Hotel
Day 3	4 December 2018	Park Plaza Hotel

#### **Cardiff**

Day 1	23 October 2018	Marriott Hotel
Day 2	13 November 2018	Marriott Hotel
Day 3	11 December 2018	Marriott Hotel

The delegate rate for each session, inclusive of lunch, refreshments and all delegate materials is £260 plus VAT at the standard rate, making the cost of the three-day course £780 plus VAT. Early booking is recommended as places are limited. Bookings can be made via the on-line events booking facility, which is part of the Local Government Association website. Each event has a link attached to the date in order to book direct. The main events booking page for all LGA events are viewable at <http://www.local.gov.uk/events>

## **The wider landscape**

### **Ban on pensions cold calling – second consultation published**

On 12 July 2018, HMT laid before Parliament a [Ministerial Statement](#) to set out government progress on the ban on pension's cold calling, as required under section 21 of [the Financial Guidance and Claims Act 2018](#). The statement confirmed that the government would imminently publish a second consultation seeking final views on a set of draft regulations to ban pension's cold calling.

Section 21 of the Financial Guidance and Claims Act 2018 provides that the Secretary of State may make regulations prohibiting unsolicited direct marketing relating to pensions. The regulations may include provision about:

- when communication is / is not treated as unsolicited;
- provide exceptions to the rules;
- grant function on the Information Commissioner and on OFCOM (including the ability to make a discretion);
- apply the provisions of the data protection legislation or the privacy and Electronic Communications (EC Directive) Regulations 2013 with regards to provisions relating to enforcement.

On 20 July 2018, following on from the [initial consultation](#) issued on 5 December 2016, HMT published their [second consultation](#) with a closing date of 17 August 2018. The initial consultation concerned government policy and resulted in the prescription within the Financial Guidance and Claims Act 2018 (as described above). The second consultation is a technical consultation intended to seek final views on the draft regulations to ensure they meet our policy objectives.

## Legislation

### United Kingdom

Act	Reference Title
2018	The European Union (Withdrawal) Act
SSI	Reference Title
2018/676	The State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations 2018
2018/216	The Firefighters' Pension Scheme (Amendment) (Scotland) Order 2018
2018/215	The Firefighters' Pension Scheme (Scotland) Amendment Order 2018

## Useful Links

[LGA Pensions page](#)

[LGPS member website](#) (England and Wales)

[LGPS 2015 member website](#) (Scotland)

[LGPS Advisory Board website](#) (England and Wales)

[LGPS Advisory Board website](#) (Scotland)

[LGPS Regulations and Guidance website](#) (England and Wales)

[LGPS Regulations and Guidance website](#) (Scotland)

[Public Sector Transfer Club](#)

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

## LGPS pensions section contact details

*If you have a technical query, please email [query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk) and one of the team's LGPS pension's advisers will get back to you.*

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## Distribution sheet

Pension managers (internal) of administering authorities

Pension managers (outsourced) and administering authority client managers

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