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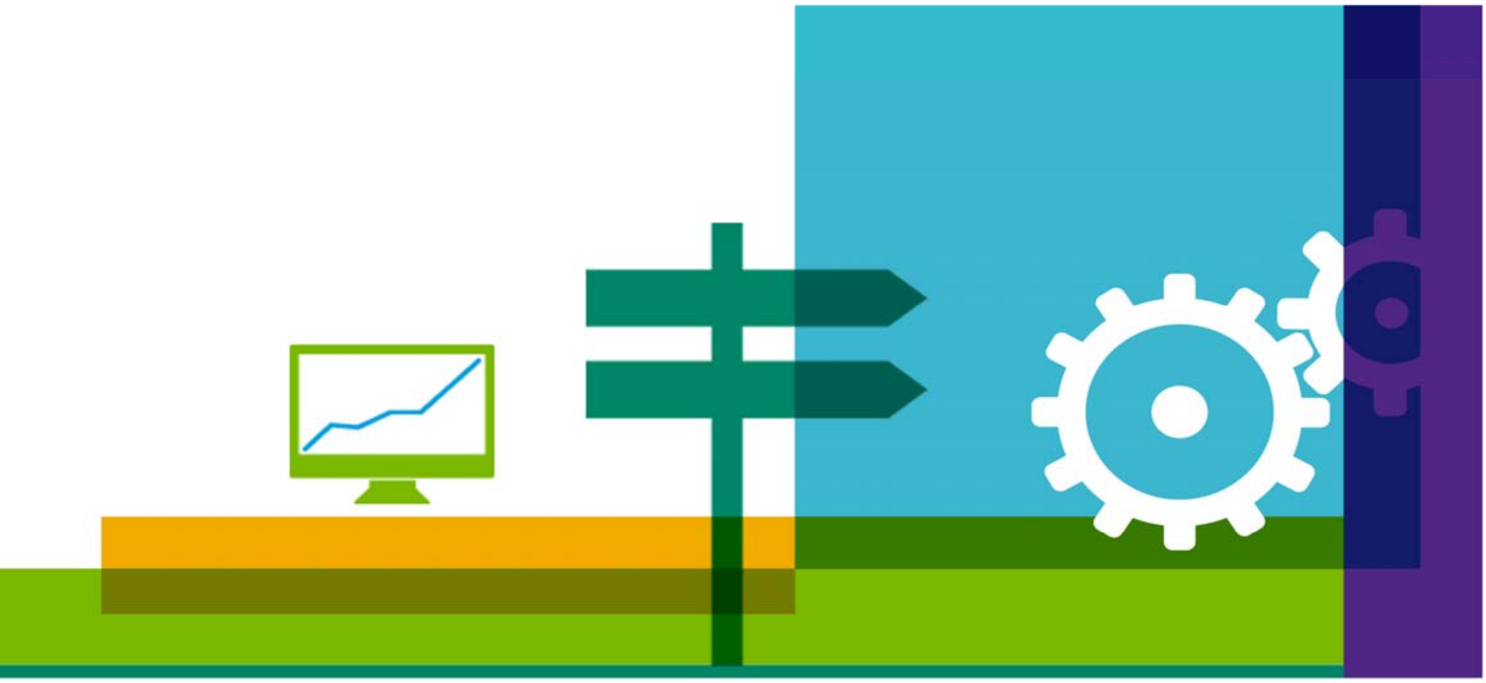
Appendix 1



The Local Government Pension Scheme 2014

LGPS Regulations 2013

11 October 2013

Prepared for Local Government Administering Authorities administered by Capita

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1. Introduction

On 21 December 2012, the Department for Communities and Local Government (DCLG) issued a consultation on the draft membership, contributions and benefit regulations for the Local Government Pension Scheme 2014, titled the Local Government Pension Scheme Regulations (LGPS) 2013 England and Wales.

On 27 March 2013, DCLG issued the 2nd consultation currently titled the Local Government Pension Scheme Regulations 2014 and 2008 Scheme amending Regulations (hereafter known as ‘the Scheme’).

On 26 June 2013, DCLG issued the 3rd consultation titled the Local Government Pension Scheme 2014 including a full set of administration regulations.

On 19 September 2013 The Local Government Pension Scheme Regulations 2013 (SI 2013/2356) were laid before Parliament and come into force on 1 April 2013.

Public Service Pensions Act 2013

These Regulations are made under the Superannuation Act 1972.

Background and context

Following the publication of the Hutton Report, the Government agreed to the Local Government Association (LGA) and the local government trade unions working together to produce a high level set of principles which would provide the basis for a new LGPS which would come into force in April 2014, 1 year ahead of changes to other public sector schemes. The early implementation of the regulations was agreed as a measure to circumvent the need for further changes to the 2008 regulations in response to a call for increased member contributions by HM Treasury from 1 April 2012.

The LGA and the main LGPS trade unions formed a ‘Heads of Agreement’ to put together high level proposals within an agreed framework. The 2012 proposals provided for an overall gross cost ceiling of 19.5%. Following initial ministerial approval, the outline of the scheme was published in a joint statement and thereafter, an informal consultation by the LGA and the local government trades unions ensued. The principles outlined were accepted by the employers, all of the major LGPS unions, and most other trades unions with members in the LGPS (with the exception of the Fire Brigades Union).

Related consultations

Discussion paper on scheme governance

Following the enactment of the Public Service Pensions Act 2013, new Scheme regulations are needed especially around the powers for administrating authorities to establish local pension boards and to establish a national scheme advisory board. These issues were addressed in a separate discussion paper on governance, the responses to which will form the basis of draft regulations to be issued later in the year.

Councillors

In December 2012, the Government announced an intention to remove eligibility for membership for Councillors from April 2014. On the 16 April the Department for Communities and Local Government (DCLG) issued a consultation on Councillors pensions. The consultation closed on 5 July 2013 and the outcome is still awaited. A Capita report on this subject was issued to relevant clients on 7 June 2013.

Fair Deal

On 4 October HM Treasury published revised 'Fair Deal' guidance which is a non-statutory policy setting out how pensions issues are to be dealt with when public sector employees' are compulsorily transferred from the public sector to independent providers delivering public services. A Capita report will be issued in due course.

Transitional Regulations

The response to the consultation on the draft transitional regulations is currently being considered by DCLG with a view to the regulations being laid in November. The regulations will continue to protect all groups of members who have historically been given protections or alterations to the way the main regulations affect them.

Audience and remit

This report is aimed at Capita's clients who administer the LGPS and associated scheme employers and covers the LGPS Scheme Regulations 2013 and provides an overview of how the different elements of the 2014 scheme will be applied.

However, two other elements are still awaited before we can fully understand how the regulations will work in practice.

The transitional regulations will show how the new scheme and the current 2008 Scheme will interact and fit together and how the provisions of the 2008 Scheme will be protected going forward. These are expected to be laid in November 2013. The report does not provide any comment of how the 2014 will interact with the provisions of the 2008 Scheme and these details will be addressed in a further report when the transitional regulations have been laid.

Guidance from the Secretary of State is also required for some areas of the regulations before calculations can be made. The regulations allow the Secretary of State to consult with the Government Actuary's Department and to publish guidance from 1 November 2013 which will have effect from 1 April 2014.

Next Steps

A full report will follow in due course detailing the regulations and highlighting any actions that will be required by Administering Authorities and Scheme Employers.

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2. The LGPS Regulations 2013 – the main changes

The main changes from the current scheme are:

- A Career Average Defined Benefit Scheme
- Normal Pension Age in line with the member's State Pension Age
- 9 contribution bands resulting in greater contributions for member's earning more than £43,000
- Benefits accrued at 1/49th of pensionable pay paid in each year
- Member can opt for 50/50 and pay half contributions for half benefits (1/98th accrual) for an unlimited period of time
- Member can opt to take voluntary payment of benefits from age 55
- Option to buy additional pension through payment of Additional Pension Contributions (APC's) to:
  - Increase retirement benefits (up to £6,500); or
  - cover a period of authorised absence or trade dispute
- A new definition of pensionable pay to include hours worked including non-contractual overtime and additional hours for part-time employees.
- Revaluation of benefits in line with two indices depending on status of member
- A vesting period of 2 years

3. Part 1 – Benefits, Membership and Contributions

Normal Pension Age

Normal Pension Age (NPA) for all benefits accrued on or after 1 April 2014 will be aligned with the member's individual State Pension Age (SPA) at the date the benefits are first paid.

This means that a member retiring before their SPA will have a reduction to their benefits and if the member has a SPA greater than age 65 the reduction will be greater than would have applied under the extant 2008 Regulations.

For example: A member with a SPA of 66 who retires at age 60 would have an actuarial reduction based on leaving 6 years early rather than leaving 5 years early as would currently apply.

The Government have already announced that further changes to the current legislation will be implemented which will bring forward the increase to age 67, and will provide for regular reviews to be held to ensure that SPA reflects future increases in life expectancy. This will make retirement planning very difficult in the future as a member's NRA is only assessed at the date of retirement and potentially change at any time before that retirement.

For example: a member who is currently planning to retire at SPA when they reach age 66 in 2034 is already expecting further rise to their SPA to age 67 by 2028 (as announced in the Queen's speech) and may have further increases applied depending on future legislation. By 2034 they may have a SPA of 68 or even 69 giving a greater actuarial reduction to benefits than they may have currently anticipated. This will reduce their retirement income, and could mean that they have to work for longer to make up the shortfall.

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Membership

Eligible employees under age 75 with a contract of 3 months or more become active members on the first day of employment, or the first day they become eligible.

Eligible employees with a contract of less than 3 months become an active member of the scheme either: -

- On the member's automatic enrolment or re-enrolment date (this would only be applicable to member's who meet the minimum earnings and age test for automatic enrolment), or
- From the first day of the payment period following an election to join.
- from the 1st day of the pay period following an extension of the contract to an aggregate of more than 3 months

An eligible employee can elect to join or opt out of the scheme at any time. An opt out is effective from the start of the next pay period unless a later date is specified by the member.

A member who opts out with less than 3 months membership is treated as never having been a member.

An eligible employee will automatically become a member of the scheme on an auto-enrolment date or auto re-enrolment date relating to the employment (irrespective of age or earnings limits required under auto-enrolment).

A person is not eligible to be a member of the scheme if eligible to be in another public sector scheme, other than some active LGPS members who are transferred to posts where they become eligible to be members of the NHS scheme under an admission agreement with a NHS Care Trust, NHS Wales or the Care Quality Commission.

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Contributions

Employers must determine the contribution rate to be paid by an active member based on the pay the member was receiving (not the whole time equivalent) on 1 April each year, ignoring any reduction due to absence. Different contribution rates may apply to different employments. An employer may adjust the contribution rate following a change in employment or a material change which affects the member in the course of a year.

Contributions are deducted on all pensionable pay.

Band	*Pensionable pay range for an employment*	*Contribution rate for that employment*
1	Up to £13,500	5.5%
2	£13,501 to £21,000	5.8%
3	£21,001 to £34,000	6.5%
4	£34,001 to £43,000	6.8%
5	£43,001 to £60,000	8.5%
6	£60,001 to £85,000	9.9%
7	£85,001 to £100,000	10.5%
8	£100,001 to £150,000	11.4%
9	£150,001 or more	12.5%

The pensionable pay ranges are increased each year in line with pensions increase orders as if they were pensions beginning on 1 April 2014.

Members can opt to pay 50% contributions and receive half benefits at any time and revert back to full contributions/benefits as they wish. However, members who continue to pay the reduced rate are opted back into the full scheme in line with the member's automatic enrolment date (providing they meet the qualifying criteria) although they can opt back into 50/50 on the following day.

A request to pay reduced contributions or to resume paying full contributions is actioned from the start of the next pay period after the request is received.

Additional contributions

Members have two choices in the new scheme when considering making payments to increase their pension provision, Additional Pension Contributions (APCs) and/or In House Additional Voluntary Contributions (IHAVCs). Scheme employer's may also pay some or all of the contributions into a member's APCs or IHAVCs.

APCs

APCs are the equivalent of Additional Regular Contributions in the 2014 Scheme but with a few differences.

Members who are paying full rate contributions can pay APCs to buy additional pension to increase their retirement benefits or to cover a period of authorised absence. Member's paying reduced rate contributions can pay APCs to cover a period of authorised absence. APCs can be paid either: A Scheme employer can contribute in full or in part into a member's IHAVC arrangement.

- via a contract of any number of whole years up to the member's NPA (at their employers discretion); or
- by a lump sum payment at any time before NPA

The maximum aggregate pension purchase on 1 April 2014 is £6,500. However, the £6,500 limit will increase each year in line with pensions increase orders.

Additional Pension bought through APCs do not increase survivor's benefits.

APC's must cease:

- when the member ceases active membership
- at the end of the contracted payment period
- when a member elects to pay reduced contributions (50/50)
- after one month's notice from the member
- on flexible retirement
- member leaves employment or dies

IHAVCs

IHAVCs can be paid to an IHAVC provider specified by the administering authority to provide for additional retirement benefits dependent on the size of the IHAVC fund on retirement or to provide an additional life assurance lump sum.

Options on retirement appear to allow a member to take up to 25% of the IHAVC fund (although clarity is required on this point) as a tax free lump sum with the remainder used to:

- purchase an annuity (open market); or
- buy additional pension in the LGPS

A member transferring to another pension provider must transfer the IHAVC fund out of the LGPS. A member aggregating benefits must transfer the IHAVC fund to the new fund and can continue to make payments accordingly.

Refund of contributions

A member who leaves pensionable employment with less than two years membership can claim a refund of contributions (including any IHAVCs) less deductions for tax and national insurance. The administering authority must make payment if a refund is not paid after 5 years or before age 75 and interest is payable if not paid within one year.

Pensionable Pay

As in the 2008 Regulations, pensionable pay is defined as all salary, wages and fees plus any benefit specified in the contract as being a pensionable emolument excluding: -

a) a non-taxable payment
b) travel and subsistence payments
c) pay for loss of holidays
d) pay in lieu of notice
e) pay as an inducement not to terminate employment before the payment is made
f) any amount treated as the money value to the employee for the provision of a motor vehicle or any amount paid in lieu of that provision.
g) compensation for loss of future pensionable payments or benefits
h) compensation for equal pay
i) any payment by a Scheme employer to a member on reserve forces leave

returning officer or acting returning officer fees other than for local government elections, National Assembly for Wales elections, Parliamentary elections or European Parliament elections.

Assumed pensionable pay replaces the member's actual pensionable pay in periods where the member is absent due to: -

a) reduced or nil pay sickness or injury; or
b) child related leave; or
c) reserve forces leave.

It is also used to calculate the pension enhancement for a member retiring on Tier 1 or Tier 2 ill health, or for a dependent's pension enhancement and death grant following death in service of a member.

Where the member is paid monthly, assumed pensionable pay for an employment in a scheme year is calculated as the pensionable pay the member received in the:-

- 3 months before the start of the pay period in which the period of absence (as listed above), ill health or death occurred; less
- any lump sum received in that period;
- with the remaining amount grossed up to a full year,
- to which any regular lump sum payment received in the previous 12 months should be added.

Where the member is paid other than monthly, assumed pensionable pay for an employment in a scheme year is calculated as the pensionable pay the member received in the: -

- 12 weeks before the start of the pay period in which the period of absence (as listed above), ill health or death occurred; less
- any lump sum received in that period;
- with the remaining amount grossed up to a full year,
- to which any regular lump sum payment received in the previous 12 months should be added.

A regular lump sum is defined as a payment which the employer determines there is a reasonable expectation that it would be paid on a regular basis.

Assumed pay is grossed up by the **revaluation adjustment** on the first day of the second scheme year which commenced after the first date on which the member is treated as receiving assumed pensionable pay.

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Pension accounts

The CARE scheme is reliant on pension accounts being set up for each scheme member. A member with more than one employment can join the pension scheme for one, some or all employments and an active member's pension account must be set up for each pensionable employment. The types of account are:

a) Active member's pension account
b) Deferred member's pension account
c) Deferred refund account
d) Retirement pension account
e) Flexible retirement pension account
f) Deferred pensioner member's account
g) Pension credit account
h) Survivor member's account

A member may have more than one type of account in respect of different periods of membership (eg an active member account and a deferred member account).

Each account will show an opening balance at the start of the scheme year (1 April) or the date the account is opened if later and is adjusted by the amount of pension accrued by an active member in the scheme year. Other events throughout the year may make further adjustments (see below) to pension accounts to give a closing balance. The closing balance becomes the opening balance for the following year and is revalued in line with the revaluation adjustment (active member's pension account) or index rate adjustment depending on the type of account being revalued.

The revaluation adjustment is applied on 1 April and revalues a member's account in line with treasury revaluation order's. These orders are currently in line with CPI, though could potentially reduce the value of a member's pension if the revaluation rate is negative. The index rate adjustment is in line with pension increase orders (again in line with CPI but with no potential to reduce a pension account.

The adjustments made during the year will vary depending on the type of account but can include:

a) an employer award of additional pension
b) a transfer value received or paid,
c) a pension debit
d) a Scheme pays election
e) a transfer into the account from a different account upon aggregation
f) any adjustment following forfeiture

Benefits

A member[1] with 2 or more years qualifying service, who is not an employee in Local Government service, and who reaches NPA is entitled to immediate payment of benefits unless the member defers payment up to any time before age 75. A member with an active concurrent period of service can draw benefits providing the relevant local government employment has ceased.

A member can elect for early payment with reduction from age 55. A Scheme employer can elect to waive all or part of any actuarial reduction

A member can, with employers consent, elect for flexible retirement with reductions applicable to their benefits from age 55 onwards. A Scheme employer can elect to waive all or part of any actuarial reduction

A member aged 55 or over who is dismissed on the grounds of redundancy or efficiency must take immediate payment of unreduced benefits. However, reductions do apply to any Additional pension bought via payment of APCs.

Pension Credit members

A pension credit member is entitled to immediate unreduced payment of benefits at Normal Retirement Age, though can:

- elect to receive payment from age 55 onwards with a reduction for early payment; or
- defer payment for any period up to age 75 with an increase for late payment

Employer award of additional pension

A scheme employer can award up to £6,500 additional pension to an active member, or up to 6 months after a member has been dismissed due to redundancy or efficiency.

Commutation

On retirement a member[2] can commute £1 of pension to provide £12 lump sum up to 25% of the capital value of the member's benefits (not including the member's IHIHAVC fund). A pension may be paid as a trivial commutation lump sum if it meets the relevant criteria in accordance with the Finance Act 2004.

Ill Health

The principle behind the ill health provisions are the same as under the extant 2008 regulations although the definitions for eligibility has changed and is dependent on the member being:

1. permanently incapable as a result of ill health or infirmity of mind or body of carrying out the duties of their employment; and
2. Not immediately capable of undertaking any gainful employment

[1] other than a pension credit member
[2] other than a pension credit member or deferred pensioner member

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The Scheme Employer must obtain a certificate from an Independent Registered Medical Practitioner (IRMP) before making a decision regarding ill health retirement.

The additional membership awarded under Tiers 1 and 2 in the extant regulations is replaced with future benefits calculated as if the member was receiving ‘assumed pensionable pay’ (see section 6) for the period from the date of leaving until Normal Retirement Age (assessed at the date benefits become payable).

Tier 1

Tier 1 benefits are awarded if the member has a reduced likelihood of being capable of undertaking any gainful employment before NPA.

Benefits are paid unreduced and enhancement is added, where enhancement is based on the amount of earned pension the member would have accrued between the day following the date of termination and NPA using assumed pensionable pay x years and days in that period.

Tier 2

Tier 2 benefits are awarded if the member;

- is not entitled to Tier 1 benefits; and
- has a reduced likelihood of being capable of undertaking any gainful employment within 3 years of leaving employment though is likely to be capable before NPA.

Benefits are paid unreduced and enhanced where enhancement is based on ¼ of the amount of earned pension the member would have accrued between the day following the date of termination and NPA using assumed pensionable pay x years and days in that period.

For Tiers 1 and 2, a reduction in pensionable pay is ignored where an IRMP has certified that the member was in part-time service wholly or partly as a consequence of ill health or infirmity of mind or body.

Tier 3

Tier 3 benefits are awarded if the member is likely to be capable of undertaking gainful employment within 3 years of leaving employment (or before NPA if earlier). Benefits are paid unreduced.

Benefits must be reviewed after 18 months in payment and following review may:

- cease; or
- be uplifted to Tier 2; or
- continue in payment up to 3 years

Benefits cease after a maximum 3 years unless the member reaches NPA in that period, in which case payment continues without review.

Members in receipt of a Tier 3 benefit must inform their former Scheme employer of any employment obtained and must answer any reasonable questions relating to that employment regarding employment status, pay and hours worked. Failure to do so may result in the pension being stopped.

The Tier 3 pension will cease:

- If the member obtains gainful employment; or
- If the employer determines that the member is capable of gainful employment following a review
- After payment for 3 years (unless the member has reached NPA)

Following a request from the member in receipt of tier 3 benefits or within 3 years after the payment of Tier 3 benefits have discontinued, the Scheme employer may award tier 2 benefits from the date of the determination (and following further certification from the IRMP) where the member is:

- Permanently incapable of discharging efficiently the duties of their former employment; and either
- Has a reduced likelihood of being capable of undertaking any gainful employment before NPA, or
- Has a reduced likelihood of been capably of undertaking any gainful employment within 3 years of leaving employment, but is likely to be able to undertake gainful employment before reaching NPA.

Once Tier 3 benefits are suspended, the member becomes a 'deferred pensioner' member. (currently known as a 'pensioner member with deferred benefits').

Deferred member's may apply for early payment of benefits on ill health grounds and would need to be certified to be:

- permanently incapable of discharging the duties of their former employment; and
- unlikely to be capable of undertaking gainful employment for at least 3 years from the date of determination

Deferred pensioner member's may apply for early payment of benefits on ill health grounds and would need to be certified to be:

- permanently incapable of discharging the duties of their former employment; and
- unlikely to be capable of undertaking gainful employment before NPA

Survivor's benefits

The death grant payable on the death of an: -

- Active member = 3 x assumed pensionable pay
- Deferred member = 5 x accrued deferred pension account
- Deferred pensioner members = (5 x accrued deferred pension account) – (tier 3 pension already paid + lump sum paid)
- Pension credit member = 3 x accrued deferred pension credit account
- Pensioner member = (10 times the annual amount of pension in payment at the date of death) - (any pension already paid)

The administering authority has discretion to pay the death grant, plus the realisable value of any IHAVC fund or additional life insurance purchased by the member via an IHAVC to or for the benefit of the member's nominee, personal representative, or any person appearing to the administering authority to have been a relative or dependent.

A survivor member's pension account must be opened following the death of a member for any eligible:

- spouse
- civil partner
- nominated cohabiting partner
- child

The survivor's pension is equivalent to the pension that the member would have been entitled to draw on the date of the member's death;

- without actuarial adjustment for early or late retirement
- ignoring a scheme pays election
- ignoring any pension debit
- excluding any additional pension purchased via APCs
- and assuming the pension was accrued at a rate of:
    - partners – 1/160
    - children – partners pension payable - 1/160 (more than 1 eligible child)
    - children – partners pension payable – 1/320 (1 eligible child)
    - children – no partners pension payable - 1/120 (more than 1 eligible child)
    - children – no partners pension payable – 1/240 (1 eligible child)
- any pension credited from a transfer in is multiplied by 49 and divided by the fraction relevant to the category of survivor (as shown above).

4. Part 2 – Administration

The administration regulations generally reflect the current 2008 Scheme administration regulations and are split into various subsections.

Administering Authorities

The administering authority must set up a pensions' board to assist in ensuring compliance with:

- the regulations and any associated legislations regarding Scheme governance and administration; and
- pensions regulation requirements

The Administering Authority must publish a governance compliance statement and must send a copy of account and audit reports to the Scheme employers with active members.

Separate funds may be set up in respect of individual admission agreements.

Strategies, statements and reports

The administering authority must publish:

- a pension fund annual report
- a funding strategy statement
- a statement of policy about exercise of discretionary functions
- a communications policy

and may publish

- a pensions administration strategy

and must obtain and publish

- a fund valuation as at 31 March 2016 and every three years thereafter having regard to Secretary of State guidance about scheme costs
- a revised valuation and exit payment when a Scheme employer ceases

Payments

Scheme employers must contribute to the appropriate amount into the appropriate fund plus any extra cost to the fund arising from early payment of benefits due to

- flexible retirement
- redundancy or business efficiency
- waiving any actuarial reduction

and must, within the relevant timescales, pay over:

- all member contributions

- all employer contributions
- an administration contribution (unless paid out of the fund)
- any additional fund costs arising from the Scheme employer's level of performance

along with a statement showing a breakdown of the various payment elements.

Decisions

The title 'Internal Disputes Resolution Procedure' is not included in the 2014 scheme though a procedure to address any disagreements still applies and works on the same lines as the IDRP under the 2008 Scheme.

Any decisions concerning rights and liabilities under the Scheme must be notified to the member as soon as is reasonably possible by the Administering Authority or the relevant employer.

If the member disagrees with the decision, they may apply to the adjudicator of either Administering Authority or Scheme Employer.

Following the adjudication, they may apply further to the Administering Authority and again to the Pensions Ombudsman for a binding decision.

All applications must be within prescribed timescales.

Other provisions

Other provisions of the administration section of the regulations include provisions for:

- Annual benefits statements
- forfeiture
- payments in respect of deceased persons
- payments for persons incapable of managing their affairs
- Transfers and interfunds in and out.