

CAPITA

Memo

To: LGPS administering authorities & Scheme employers

From: LGPS Technical Consultancy team

Date: 22 October 2019

Subject: LGPS administering authorities & Scheme employers -
Technical clarifications (Q3 2019)

A Technical update for LGPS administering authorities & Scheme employers

The intention of this memo is to (1) highlight any areas of uncertainty that were identified throughout the period 1 July – 30 September 2019 (Q3 2019) for the LGPS, and (2) provide clarification on these points.

Local Government Pension Scheme (LGPS)

Subject	Question/area of uncertainty	Answer/clarification
<p>Auto-enrolment</p>	<p>Can an employee, who doesn't want to become a member of the LGPS, simply opt out of being auto-enrolled into the Scheme, or do they first have to be enrolled into the Scheme before they can opt out?</p>	<p>The pension scheme & auto-enrolment rules require that the member's opt out form is dated (and received) on or after the date the member joins/re-joins the Scheme. However, if this criteria is met before the member's first payroll cut-off following their joining/re-joining the pension scheme, then an opt-out can be processed without any pension contributions having to be deducted, and then, subsequently, refunded*; it also negates the need for having to create a new starter record on Hartlink.</p> <p>*for reference, an opt out within 3 months of joining the Scheme must be processed by the employer and is not refunded by the pension fund.</p>
<p>Retirement benefits – deferring payment beyond NPA</p>	<p>A deferred member reached their normal pension age (NPA) some years ago, but has only just got around to taking payment of their benefits:</p> <p>Q1: From what date should the member's benefits be paid from?</p> <p>Q2: When is a member entitled to late retirement increases?</p> <p>Q3: At what point do the member's benefits crystallise?</p>	<p>A1: In this scenario, the member's benefits are payable from their NPA; a member can only take their deferred benefits from a date later than their NPA if:</p> <ul style="list-style-type: none"> • They left contributing membership of the Scheme after 31 March 1998; and • They made a positive election to defer their benefits to a date later than their NPA, and such an election was made before the member's NPA <p>For reference, the member's benefits must commence no later than the day before their 75th birthday.</p> <p>A2: If the member deferred payment of their payments to a date later than their NPA (see A1), late retirement increases apply:</p> <ul style="list-style-type: none"> • For benefits built up before 1 April 2014 – from the member's 65th birthday • For benefits built up since 1 April 2014 – from the member's State Pension age (SPA) or age 65 if later <p>A3: From the earlier of:</p> <ul style="list-style-type: none"> • The date the member's completed retirement option forms are received; or • The day before the member's 75th birthday

Local Government Pension Scheme (LGPS)

Subject	Question/area of uncertainty	Answer/clarification
<p>Death benefits – recipient(s) of a death grant</p>	<p>How does the administering authority (pension fund) determine recipient(s) of a death grant?</p>	<p>There isn't a set method on how the administering authority determines the recipient(s) of a death grant; completed nomination/expression of wish forms held on file should be taken into account, though these forms are not legally binding and should only be used to assist the administering authority in making a decision.</p>
<p>Death benefits – multiple death grants</p>	<p>A deceased member, immediately before his death, had multiple LGPS benefits across the Scheme (deferred benefits & pensions in payment) - should any/all death grants be made payable, or is only one death grant payable? In what instance is only one death grant payable where a member had multiple LGPS benefits?</p>	<p>If the member has multiple periods of LGPS membership, the death grant payable is the higher of:</p> <ul style="list-style-type: none"> • The sum of all 'active' member death grants payable, or • The sum of all other deferred & pensioner member death grants payable
<p>Death benefits – review of an ongoing child's pension</p>	<p>An incapacitated child's pension is in the process of being reviewed, but the certificate completed at the last review stated that the pensioner's impairment was 'permanent' - can the pension continue to be paid without a further review?</p>	<p>Yes, it can; for reference, it's only necessary to carry out regular reviews to see if a child/pensioner remains incapacitated (and, therefore, allow for a pension to continue to be paid) if the deceased member;</p> <ul style="list-style-type: none"> • Left contributing membership before 1 April 2014; and • Died before 1 April 2014 <p>However, if, at any point, the pensioner's impairment is certified by their GP as being 'permanent', then no further reviews of the pension should be undertaken and the pension should be paid for life.</p>
<p>Death benefits – survivor's pension</p>	<p>A member's survivor, though entitled to a survivor's pension, doesn't want it(!) – can an eligible recipient waive their entitlement to a survivor's pension?</p>	<p>No, they can't; even if the survivor refuses to claim it, the arrears of pension will be owed to the survivor's estate on their death.</p> <p>However, there are a number of other issues to consider when a survivor refuses to claim a pension, particularly when a marriage/date of birth need to be verified (and the survivor has the relevant certificates); if you receive such a case, please refer it the LGPS Technical Consultancy team.</p>
<p>Death benefits – recovering overpayments</p>	<p>Can an overpayment of a member's pension be recovered from the surviving spouse's pension?</p>	<p>Section 91 of the Pensions Act 1995 prevents overpayments on death being automatically recouped from a beneficiary. An overpayment is the debt of the member, so it passes onto the member's estate; it could be recouped from a benefit due to a beneficiary, where the beneficiary agrees to this, but it can't be offset automatically against another benefit (for example, against a dependant's pension).</p>

Local Government Pension Scheme (LGPS)

Subject	Question/area of uncertainty	Answer/clarification
<p>Ill health – serious ill health</p>	<p>A member is seriously ill, with less than a year to live – do the Scheme rules allow for the member’s benefits to be commuted for a one-off, serious ill health lump sum?</p>	<p>If the member left contributing membership:</p> <ul style="list-style-type: none"> • Before 1 April 2008 – The member’s LGPS benefits can be commuted for a one-off, serious ill health lump sum, provided the member has a life expectancy of less than 12 months; the serious ill health lump sum, which is paid tax-free, is calculated as follows: <i>(5 x deferred pension) + standard lump sum</i> • After 31 March 2008 – Unfortunately, the rules applicable to post 31 March 2008 leavers don’t allow for a member’s LGPS benefits to be commuted for a one-off, serious ill health lump sum.
<p>Ill health – Scheme employer consent</p>	<p>A member stopped contributing to the LGPS before 1 April 2008 (1995 & 1998 Scheme members), but now wants to take early payment of their deferred benefits on ill health grounds – does the member need their (former) Scheme employer’s consent to receive early payment of their benefits on ill health grounds?</p>	<p>No, the member doesn’t need their former Scheme employer’s consent to take early payment of their deferred benefits on ill health grounds.</p> <p>Unlike the 2008 & 2014 Scheme’s rules, the 1995 & 1998 Scheme rules make no reference to an employer having to make a determination for a deferred member wishing to take their benefits on ill health grounds; it’s the IRMP who makes the decision, as they need to decide whether the member is “permanently incapable” (and, therefore, eligible) or not.</p> <p>As a point of clarification, a member who stopped contributing to the LGPS after 31 March 2008 would need their former Scheme employer’s consent to take early payment of their deferred benefits on ill health grounds (though the Scheme employer would only make a decision after first receiving a report).</p>
<p>Ill health – part-time contributing member</p>	<p>A member reduced their hours before 1 April 2014, but an IRMP has certified that the member did so due a condition that contributed towards their Tier 1 or 2 retirement - what impact does it have on the member’s:</p> <ol style="list-style-type: none"> (1) Final salary benefits (2) Accrued CARE (3) Enhancement 	<ol style="list-style-type: none"> (1) The member’s reduction in hours should be ignored; this means that the member’s final salary membership between the date of reducing their hours and 31 March 2014 should be based on the member’s contractual hours that were in place immediately before the reduction took place. In addition, no early retirement reductions are applied to these benefits. (2) The accrued CARE pension remains unchanged (though no early retirement reductions are applied to these benefits) (3) The Assumed Pensionable Pay (APP) used for the purpose of calculating the ill health enhancement should ignore the reduction in hours; this means that the member’s APP should be calculated as if the member’s contractual hours that were in place immediately before they reduced their hours are still valid. In addition, no early retirement reductions apply.

Local Government Pension Scheme (LGPS)

Subject	Question/area of uncertainty	Answer/clarification
		<ul style="list-style-type: none"><li data-bbox="1120 542 1142 558">•