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## **LGPS Amendment Regulations 2018**

The new LGPS (Amendment) Regulations 2018 have now been implemented and include some significant changes.

### **Assumed Pensionable Pay (applies retrospectively from 1st April 2014)**

The amendment regulations included a discretion for employers when working out an employee's Assumed Pensionable Pay (APP) which is intended to both simplify the APP figure and closer reflect the employees pay.

The standard APP calculation still looks at the last 3 full months of pay before reduced or nil pay commenced, however where the employer determines that this standard APP calculation results in a figure which is less than the member's normal pay, the employer now has the discretion to substitute the standard APP calculation with a higher APP figure (e.g. current pay rate). When making such a decision it's important that you consider the pensionable pay received in the previous 12 months.

As this is a new discretion for employers, you may wish to review your LGPS Employer Discretions Policy and include whether or not you will be applying this new flexibility.

### **Employers leaving the LGPS (applied from 14th May 2018)**

Before the amendment regulations came into force, any employer who ceased to be a participating employer in the LGPS, with a surplus (i.e. where their fund assets exceed their liabilities), they could not be repaid the excess sum. Following the amendment regulations, where a surplus is confirmed by the exiting actuarial report following cessation, this can now be repaid to the exiting employer.

This will be of interest mainly to Admitted Bodies who may be short-term scheme employers whilst undertaking an outsourced contract.

### **Deferred Members who left the LGPS before 1st April 2014 (applied from 14th May 2018)**

Since the introduction of the current scheme rules from 1st April 2014, members who have contributed to the scheme at any point since then and subsequently left the scheme, have been able to access their pension benefits early, from age 55, although usually at a reduced level based on their age at the point of payment.

Scheme members who left **before** 1st April 2014 can also now voluntarily access their pension from age 55.

There are still some finer details to be confirmed relating to some members who left the scheme before 1st April 1998, however, if you receive any enquiries from former employees about taking their pension early as a result of the new rules, please ask them to contact us in writing.

Former employees may still contact you as their last LGPS employer, in respect of accessing their pension early on the grounds of ill-health or compassionate grounds. You should still consider such cases in line with scheme regulations (ill-health) and your Discretions Policy (compassionate).

All deferred members will receive their Annual Benefit Statement from us in the coming weeks which will include information about this new option along with a link to a Deferred Member Newsletter which is available at [www.derbyshire.gov.uk/pensionsnewsletters](http://www.derbyshire.gov.uk/pensionsnewsletters).

### **AVCs (applied from 14th May 2018)**

Changes to AVC rules in the amendment regulations now allow members, whose AVC contract commenced before 1st April 2014, to pay up to 100% of pensionable pay, after statutory deductions (based on the 2014 CARE scheme definition). Before this amendment, the maximum AVC contribution limit for such members was 50%.

A summary of all of the changes to the scheme as a result of the Amendment Regulations is available [here](#).

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## **GDPR**

The General Data Protection Regulation (GDPR) came into effect on 25 May 2018. It represents the most important data protection change in 20 years, therefore it's important that employers are aware of their responsibilities around the collection and recording of their employees and ex-employees' data.

We have published a [Memorandum of Understanding](#), which explains the relationship between Derbyshire Pension Fund and its scheme employers with regard to GDPR. The memorandum confirms that a data sharing agreement between the fund and LGPS employers is not required.

Further to this, as the LGPS is a statutory pension scheme, employers can retain data beyond the standard 6 year time period in order to fulfil their legal obligations as an LGPS employer. It is also worth noting, that in some cases LGPS regulations require employers to provide up to 13 years of pay information to Derbyshire Pension Fund when an employee leaves.

Further information can be found on our page [GDPR for LGPS Members](#).

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## **Cohabiting Partners**

### **High Court Ruling – Eligible Cohabiting Partners and a Survivor's Pension**

A recent High Court case (Elmes v Essex) has provided a ruling on the eligibility of cohabiting partners for a LGPS survivor's pension where their partner, if an LGPS member at any time between 1st April 2008 and 31st March 2014, died before 1st April 2014.

If you are aware of any cases where a former employee had a cohabiting partner who did not receive a survivor's pension, you may wish to notify them about the ruling. Further information is available [here](#).

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## **Pension estimates**

**E1 - Employee Estimate Form and E2 - Member Estimate Form**

There are now two new estimate forms on our website.

The **E1** form is for you to request quotes for your employees based on, redundancy, flexible retirement, or in the event of serious ill health: [Guides and Forms](#)

The **E2** form is for the employee to request a quote on a voluntary retirement basis. The employee should complete their details and then send it to you or your payroll department to complete the pay information: [Members' Factsheets and Leaflets](#)

We would urge employees to use the [Pensions Calculator](#) as an alternative to requesting an estimate, as written estimates are limited to one in any 12 month period and only if the member is within two years of the prospective retirement date.

### **Estimate Timescales**

We receive a high volume of early retirement/redundancy estimate requests from employers, often asking for an urgent response. We always do our best to meet such requests, but sometimes may be unable to respond as quickly as you would like. The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 provide that illustrations of pension benefits be provided within two months from the date of the request. Please bear that in mind for future estimate requests, so you can allow sufficient time in your processes in case we need that period of time to respond.

Please also ensure that the new estimate forms are used and are fully completed before sending to us.

### **Avoidable Estimate Requests**

We have noted that some employers have submitted estimate requests for **all** scheme members who are aged 55+ by the anticipated retirement date as the starting point of an early release/redundancy exercise.

This has caused large workloads which could have been avoided when it has come to light that employers had not sought expressions of interest from employees before submitting the requests.

Please avoid sending such multiple requests, and only do so for employees who are definite candidates for the release of their pension benefits on early release/redundancy grounds.

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## **Shortfall Payments**

We are aware of some cases where employers have contacted us seeking to pay shortfall payments in respect of early retirement/redundancy cases by instalments.

Where employers have confirmed the early release of pension benefits to a scheme member due to early retirement/redundancy, any shortfall payments to the Fund must be made **in full** upon receipt of the invoice.

Some employers have indicated to us that where an early release/redundancy shortfall invoice is not issued until their next budgetary year they have not accounted for the shortfall costs.

Please could all employers note that where you have made a decision on entitlement to pension benefits for your employee(s) and a shortfall cost exists, we are unable to issue the invoice to you until **after** the final calculation of benefits has taken place and that the invoice must be paid promptly and in full.

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## **L1 Forms**

Please note that when submitting a leaver notification, you **must always** use the latest version of the L1 form, even for those employees who left prior to the introduction of the new L1.

The **L1a - Leaver Revision Form** can now be found on our [Guides and Forms](#) page. This form should only be used if a full L1 has already been submitted and is for revising the employee's pay, hours or leaving date.

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## Year End and Contribution Returns

Thank you to all who have submitted your 2017/2018 Year End returns and to those helping us resolve any related queries. Once all queries have been reconciled we will be sending out annual benefit statements to those of your employees with LGPS records.

Thank you also to those who consistently meet the deadline for the monthly contribution return, which is the 19th of the month following the month to which the contributions relate.

Further details of deadlines, expectations and LGPS employer performance monitoring can be found in our [Administration Strategy](#).

**If you have any queries about the information provided in this Newsletter,  
or about the LGPS in general, please contact us at:**

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