

# LOCAL GOVERNMENT PENSION SCHEME 2008

## EMPLOYER BULLETIN No. 9 – October 2010

### MISCELLANEOUS REGULATION UPDATES



## Introduction

Welcome to the latest employer bulletin. The main purpose of this bulletin is to bring to your attention important amendments to scheme regulations following the introduction of the Local Government Pension Scheme (Miscellaneous) Regulations 2010 effective from 30<sup>th</sup> September 2010. These miscellaneous regulations have introduced some significant changes to the option of combining former Local Government Pension Scheme rights and these details are highlighted in this bulletin.

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## **The LGPS (Miscellaneous) Regulations 2010 (S.I. 2010/2090)**

The LGPS (Miscellaneous) Regulations 2010 were laid before Parliament on 25 August 2010 and came into force on 30<sup>th</sup> September 2010. The main changes included within these regulations are highlighted below:

### ***Combining LGPS benefits - new rules***

Regulation 16 of the LGPS (Administration) Regulations 2007 (as amended) has been amended and makes changes to the provisions for combining periods of local government membership.

If a member leaves the LGPS they are entitled to leave their benefits in the Scheme (known as deferred benefits). If they later re-join the LGPS with another Local Government employer or an employer that has access to the LGPS, they may add their previous deferred benefits to the benefits building up in their new employment. This is known as combining benefits.

### ***Combining LGPS benefits – Q&A***

#### ***What were the rules before 30<sup>th</sup> September 2010?***

Before 30 September 2010, the ability to combine benefits was restricted in two ways:

- A decision to combine benefits had to be made within the first 12 months of returning to Local Government employment (or such longer period as the employing authority allowed); and
- Where a member had deferred benefits held with more than one previous LGPS employer, they could only combine the most recent period of membership with their current ongoing membership.

#### ***What has changed?***

- Under the revised regulations, existing active members on 30<sup>th</sup> September 2010 have until 30<sup>th</sup> September 2011 to combine **any** period of former local government membership with their current membership i.e. they are permitted to transfer in not just their most recent former period of membership but any period of membership that they hold prior to that.
- New members joining the scheme on or after 30 September 2010 are permitted to aggregate any of their previous periods of local government membership, not just the immediately preceding one, provided that they elect to do so within the first 12 months of their new period of membership or any such longer period as their employer may allow.

#### ***What happens after 30<sup>th</sup> September 2011?***

From 1<sup>st</sup> October 2011 all new active members will still have 12 months from their date of joining their new local authority to elect to investigate a transfer of previous local government membership. For members wishing to transfer in after their first 12 months of membership permission must be sought from their employer.

However members investigating the transfer of previous local government membership within their first 12 months (or such longer as their employer allows) will still have the ability to aggregate any of their previous periods of membership, and not just the immediately preceding one.

### **How does this affect an employer's existing policy statement?**

All employers must make a policy determination on a number of discretions available under the Scheme regulations. One of these discretionary policies relates to Regulation 16 of the LGPS (Administration) Regulations 2008 and requires employers to set out their policy with regard to the possible extension of the 12-month pension transfer period.

**IMPORTANT: THE MISCELLANEOUS REGULATIONS OVERRIDE EMPLOYER POLICY STATEMENTS AND ANY DECISION THAT AN EMPLOYER MAY HAVE PREVIOUSLY MADE WITH REGARD TO REFUSING THE TRANSFER OF FORMER PENSION RIGHTS FOR AN EMPLOYEE WITH MORE THAN 12-MONTHS MEMBERSHIP WILL BE DISREGARDED.**

*So, if an existing member has previously been refused permission by their employer to transfer in their previous Local Government Pension rights as they had exceeded the 12 month deadline, can they now apply again?*

Existing members on 30<sup>th</sup> September 2010 who have over 12 months membership of the LGPS and have previously been refused permission by their employer to transfer can re-apply directly to the pension team to investigate the transfer before 1<sup>st</sup> October 2011. These members **will not** require permission from their employers and the miscellaneous regulations will **override** any earlier decision that an employer may have made to refuse such a transfer. It is worth noting that from 1<sup>st</sup> October 2011 the 12 month deadline will be re-introduced and the opportunity to transfer in outside of the 12 month deadline will again be down to the employer's discretion.

In effect this is one last opportunity for all existing scheme members to transfer any of their former Local Government Pension Scheme benefits into the Berkshire Pension Fund regardless of any previous decision by an employer to refuse the transfer because he or she has been a member of the Scheme for at least 12 months.

**IMPORTANT: IF YOU ARE CURRENTLY GOING THROUGH A REVIEW OF YOUR SERVICES AND HAVE SCHEME MEMBERS WHO ARE AGED 55 OR OVER AND ARE BEING CONSIDERED FOR REDUNDANCY, IT IS IMPERATIVE THAT BEFORE MAKING ANY FINAL DECISIONS, YOU ARE AWARE OF WHETHER OR NOT SUCH A MEMBER HAS PREVIOUS LGPS MEMBERSHIP THAT THEY MAY NOW WISH TO TRANSFER TO THE BERKSHIRE PENSION FUND. THIS COULD HAVE SERIOUS COST IMPLICATIONS FOR YOU AS AN EMPLOYER WITH REGARD TO THE CAPITAL COST OWING TO THE PENSION FUND THAT CAN ARISE AS A RESULT OF AN EMPLOYER'S DECISION TO MAKE A SCHEME MEMBER REDUNDANT.**

**Please note:** That this is a decision that has not been taken by the Berkshire Pension Fund but by Communities and Local Government (CLG), the scheme legislators.

### ***How do existing active members make an application to transfer?***

Existing members on 30<sup>th</sup> September 2010 wishing to consider transferring any former pension rights that they have in the LGPS into the Berkshire Pension Fund will need to complete and return an **LGS13A** transfer request form.

At this stage members are only expressing an interest in transferring their benefits. Once they have been made aware of what the transfer will purchase in the Berkshire Pension Fund they will need to sign a declaration confirming whether or not they want the transfer to go ahead.

***How does this affect members applying to transfer in from a pension scheme outside of Local Government***

The extension of the 12 month transfer deadline under the miscellaneous regulations **will not** apply to members wishing to investigate a transfer outside of Local Government. These transfers must still be investigated within the member's first 12 months of joining the Scheme (or such longer as the employing authority allows).

Members who are wishing to investigate a transfer in from another pension arrangement outside of Local Government must apply to us in the normal way by completing the normal form **LGS13** and forwarding this to the Berkshire Pension Fund. If this application is made outside of their 12 month deadline we will then apply to the member's employer on their behalf to request permission to continue with the investigation of the transfer.

***What to do now***

All existing active members of the Berkshire Pension Fund on 30<sup>th</sup> September 2010 will shortly be receiving a letter confirming the changes to the transfer regulations. This information will also be detailed in the next newsletter which will be issued in Spring 2011. However we would be most grateful if you could communicate these changes to all you active members by distributing the attached **information sheet** and accompanying **LGS13A** form. Members can contact us directly for further information by telephoning **0845 602 7237** or e-mailing **info@berkshirepensions.org.uk**

## ***Early Leavers: Ill Health***

### **Regulation 20 of the LGPS (Benefits, Membership & Contributions) Regulations 2007 (as amended) – Amendment to eligibility criteria wording**

A change has been made to the terms of the ill-health eligibility criteria set out in Regulation 20 of the Benefits Regulations. The Miscellaneous Regulations replace the term '**obtaining any gainful employment**' with the term '**capable of undertaking any gainful employment**'. This change has been made as Independent Medical Registered Practitioners (IRMP) considered the former wording as seeking an opinion from them beyond their professional competence.

The following LGS26 ill-health certificates have subsequently been updated with this revised wording and are available via our website. The forms are also accessible by clicking on the forms highlighted below:

**LGS26** – Occupational Health Ill-health Retirement Certification for a Current Employee Post 30 September 2008

**LGS26B** – Occupational Health Ill-health Retirement Certification for a Deferred Beneficiary who ceased membership as an employee on or after 1 April 2008

**LGS26E** – 3<sup>rd</sup> Tier Ill-health Retirement Review Certificate for a 3<sup>rd</sup> Tier Pensioner Review Taking Place Within 3 Years of Date of Cessation of Employment

**LGS26F** – 3<sup>rd</sup> Tier Ill-health Retirement Review Certificate for a suspended 3<sup>rd</sup> Tier Pensioner Review Taking Place Within 3 Years of Date of Original Date of Leaving

### **Regulation 20 of the LGPS (Benefits, Membership & Contributions) Regulations 2007 (as amended) - 3<sup>rd</sup> Tier ill-health Retirement – new regulation 20(11)(aa)**

Where a member has been awarded a tier-3 ill health retirement the former employer has the opportunity to review the case at the point payments cease after 3 years with a view to upgrading benefits to tier-2 ill health retirement. Regulations now place a time limit of 3 years from the date that tier-3 benefits cease for the employer to make any subsequent determinations with regard to upgrading benefits to tier-2. This is to avoid applications being made many years into the future.

## ***Further information on the Miscellaneous Regulations***

The Miscellaneous Regulations can be viewed in full via our website or by following the attached links:

**CLG Covering Letter**  
**The LGPS (Miscellaneous) Regulations 2010 (S.I. 2010/2090)**

## **Academies**

### **Schedule 2 of the Local Government Pension Scheme (Administration) Regulations 2007 (as amended)**

The main provisions of the Academies Act 2010 came into force on 28<sup>th</sup> July 2010. Part 1 of Schedule 2 of the Administration Regulations is amended to allow a school which becomes an academy in accordance with the Academies Act 2010 to be a Scheme employer i.e. a scheduled employer. This means that any existing employee of the school who is a member of the LGPS remains a member of the Scheme from the point that the school is designated as an Academy. From a practical point, any Academy will require their own employer rate to be calculated by the actuary.

## **Royal County of Berkshire Annual Meeting 2010**

Our 2010 Annual Meeting is to be held on **Tuesday, 23 November 2010**, in the **Council Chamber** at **Maidenhead Town Hall**. The meeting is open to all members of the Royal County of Berkshire Pension Fund.

In attendance will be members of the Berkshire Pension Fund Panel and the Pension Fund Advisory Panel including the Chairman, Councillor John Lenton. Also present will be Nick Greenwood, Pension Fund Manager, and Kevin Taylor, Pension Administration Manager.

The meeting will commence at **11am** with a view to finishing at approximately **12:15pm**. Refreshments will be provided. **We would be grateful if you could communicate this event to your employees.**

Any employees wishing to attend the meeting can e-mail [joanne.brazier@rbwm.gov.uk](mailto:joanne.brazier@rbwm.gov.uk)

## **Royal County of Berkshire Pensions Fair 2010**

To coincide with our annual meeting (see above) we are holding a **Pensions Fair** on **Tuesday, 23 November 2010** in the **Desborough Suite** located in the **Town Hall, Maidenhead**. The Pensions Fair will be open to all members of the Pension Scheme and will run from **10:30am until 3pm**. Entry is free and no appointment is necessary.

Representatives will be in attendance from:

**Berkshire Pension Fund - Pension Team**, answering queries on all aspects of the Local Government Pension Scheme.

**Berkshire Pension Fund - Payroll Team**, offering guidance on any tax or income queries for members who are in receipt of a Berkshire pension.

**Prudential**, offering advice on increasing your pension entitlement through Additional Voluntary Contributions.

**DWP**, offering guidance on State Pension related queries and benefits.

***No appointment is necessary for this event***

A comprehensive range of literature from these organisations will also be available. **We would be grateful if you could communicate this event to your employees.**

For further information on this event please visit [www.berkshirerpensions.org.uk](http://www.berkshirerpensions.org.uk) or e-mail [joanne.brazier@rbwm.gov.uk](mailto:joanne.brazier@rbwm.gov.uk)

## Valuation Update

Every three years an independent review, known as a valuation, is undertaken in order to ascertain the current funding level of the Royal County of Berkshire Pension Fund. As part of this process employer contribution rates are set for the forthcoming valuation period. Employer contribution rates are outlined in a [Rates & Adjustment Certificate](#) that forms part of the formal valuation of the Pension Fund. The date of the most recent valuation was 31<sup>st</sup> March 2010 and employer contribution rates will soon be set for the period 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2014. All Fund data was issued to our Actuaries, Barnett Waddingham and to the Government Actuary's Department (GAD), on 16<sup>th</sup> August 2010, some 15 days before the deadline. Once the full valuation report has been produced a meeting will be arranged for all employers to attend to review the results.

## Pension Surgeries for 2010/2011

We are happy to arrange pension surgeries at your place of work to meet with scheme members by appointment to discuss their particular questions regarding their own LGPS benefits. Members are welcome to make a 15-minute appointment with us to discuss their pension benefits in complete confidence at a time convenient for them. If numbers exceed what would be manageable for one pension administrator to undertake, we are happy to resource this so that appointment times can be doubled up if required.

These surgeries are proving to be very popular with our scheme members particularly in light of the current financial climate.

**Pre-Retirement Seminars** - We can, in conjunction with Prudential, offer your staff an opportunity to attend a 2-hour seminar on planning for retirement. Having looked at the provision of this type of service across the pensions industry, the Fund has asked Prudential to assist in running these seminars. We believe the knowledge that Prudential have in delivering this type of seminar is invaluable to our members. These seminars would be completely free of charge and would cover the following topics:

- **LGPS and the benefits it provides**
- **Top Tax Tips**
- **Protecting your inheritance**
- **Securing the best pension income for you**
- **Unlock the value tied up in your home**
- **State Pension benefits**

If you would like to find out more about arranging a pension surgery or retirement seminar at your place of work, please contact Joanne Brazier directly on **01628 796754** or e-mail [joanne.brazier@rbwm.gov.uk](mailto:joanne.brazier@rbwm.gov.uk)

## The Quill Newsletter – Autumn 2010

The latest edition of *The Quill* newsletters for active scheme members has now been dispatched and includes this year's annual benefit statement to 31<sup>st</sup> March 2010. An electronic copy is available via our website at [www.berkshirepensions.org.uk](http://www.berkshirepensions.org.uk)

## Annual Report and Accounts 2009/2010

The Annual Report and Accounts for **2009/2010** will shortly be available via our website. An electronic copy will also be distributed to all employers. A summary of the annual report and accounts for 2009/2010 is included in the Autumn edition of *The Quill*.

## Proposed Changes to Pensions Increase

You may have heard that the new Coalition Government has announced plans to change the index used to calculate annual increases in public sector pensions from April 2011 from the Retail Prices Index (RPI) to the Consumer Prices Index (CPI). This proposal was based on the argument that the CPI, which excludes several housing expenditure items, more closely reflected inflation experienced by pensioners. The pensions increase will continue to be based on the annualised change in the CPI measured to September each year.

### ***CPI/RPI – what's the difference?***

CPI and RPI are both measures of inflation but will often give different views on its level. This is a result of the basket of goods and services used in each index being slightly different and a difference in the methodology used. The Government believes that the Consumer Prices Index is a better measure of inflation for pensioners.

### **Differences include:**

- RPI includes mortgage interest payments, whereas CPI does not. Therefore any change in interest rates charged on mortgages affects RPI but does not affect CPI.
- CPI weights are based on expenditure by private and institutional households and foreign visitors. RPI weights are based only on private households and also exclude the highest income households and those pensioner households who are mainly dependent on state benefits.
- CPI excludes some items e.g. house depreciation, council tax and TV licences and includes items such as university accommodation fees and some financial services.

We will shortly be removing any reference to RPI from our pensions literature and website.

Further information about RPI and CPI can be found by visiting the [Office of National Statistics website](http://www.ons.gov.uk). Details of the revised CPI inflation rate for April 2011, once confirmed, will be communicated in the next edition of *The Quill*. Updates will also appear on our website at [www.berkshirepensions.org.uk](http://www.berkshirepensions.org.uk)

## Annual Benefit Statements

The Annual Benefit statements for 2010 have been completely redesigned this year making them more user friendly for our members. We have also included a forecast of the member's State Pension benefits as supplied by the Department for Work and Pensions.

All statements have now been dispatched and have been enclosed with a copy of the Autumn edition of the Quill. Explanatory notes to accompany the statements are included in The Quill, however further explanatory notes will also be available via our website shortly.

## Hutton Report Released 7<sup>th</sup> October 2010

The Independent Public Service Pensions Commission has issued its interim report on potential reform of public service pension schemes. The final report is due to be released in Spring 2011. The Independent Public Service Pensions Commission's press release and the full interim report are available on the [HM Treasury website](#). The full statement is also available via our website at [www.berkshirerpensions.org.uk](http://www.berkshirerpensions.org.uk)

The key messages from the interim report are:

- The status quo is not tenable – changes need to be made;
- There needs to be a fairer balance between current taxpayers and public sector employees and current and future generations;
- There is a strong case for some increase in employee contributions rates and this should be targeted at high earners (as you know the LGPS has already introduced tiered contribution rates);
- Public sector pensions are not gold plated (hooray – someone at last realises this!);
- There is no race to the bottom and public sector pensions should become the benchmark for the private sector to aim for;
- Final salary pensions are no longer a robust and fair mechanism;
- An alternative scheme model that provides a fair sharing of risk between the employer and the employee and adequate pensions for members is needed. Defined Contribution is not the answer. The final report is to consider alternative structures such as career average, collective defined contribution and hybrids (a combination of defined benefit and defined contribution);
- Future pension ages need to reflect longevity changes;
- No reason to de-fund the LGPS;
- CPI changes, pay freeze and public sector workforce reductions will reduce public sector pension costs from 1.9% of GDP to 1.4% by 2060.

## **Government Tax Relief Announcement**

In the June 2010 budget, it was announced that the Government planned to consult on proposals to restrict pensions tax relief. The Government has now outlined its approach to restricting pensions tax relief and this was published on 14<sup>th</sup> October. The full document can be viewed by clicking on this attached link [HMRC tax relief document](#).

As a result of this review there are two main changes introduced as follows:

- The Government has announced that from 6<sup>th</sup> April 2011, the Annual Allowance for will be reduced from £255,000 to £50,000 and;
- From April 2012 the lifetime allowance will be reduced from £1.8 million to £1.5 million.

We are currently awaiting further guidance from the Local Government Employers regarding these changes and this will be communicated to you all in due course.

### **Action to be taken**

- **Notify all your existing active members within your employment of the changes to the regulations regarding the option to combine previous Local Government membership by distributing the transfer Q&A information sheet and LGS13A election form.**
- **Familiarise yourselves with the other main changes included in the Miscellaneous Regulations within this bulletin.**
- **Ensure the updated LGS26 ill-health certification is used with immediate effect.**
- **Advertise the Berkshire Pension Fund's forthcoming Annual Meeting and Pension Fair to all your employees.**

**Joanne Brazier  
Assistant Pensions Manager – Communications  
October 2010**

## **Disclaimer**

The information contained in this Bulletin has been prepared by the Royal County of Berkshire Pension Fund. It 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 the Pension Fund 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 Pension Fund any perceived errors or omissions. Please contact:

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