

“LGPS2015 for Employers” Seminar Notes

**Teacher Building, Glasgow
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Hosted by Strathclyde Pension Fund**

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Index

	Page
Foreword	3
1. Scheme Overview	4
A Career Average Pension	4
Pension Accounts – a whole new concept	7
Joining the Scheme	9
Opting-out, rejoining and auto-enrolment	10
The 50/50 Option	12
Member Contributions	14
Retirement Benefits	18
Protection – Pre 2015 benefits	22
Protection - The underpin	23
Protection - Rule of 85	24
2. HR Implications	27
Disclosing new Scheme terms	28
Sickness/injury	30
Absences	32
Separate contracts?	35
Discretions policy	36
3. Payroll Implications	38
Separate records for each job	39
Separate records for 50/50 membership	40
Pensionable pay redefined	41
“Assumed” pensionable pay	47
Certificates of Protection	51
New employee rates and additional contributions	52
Employee and employer contributions during absences	55
Payments made after leaving	57
System requirements and end of year data	58
4. Financial Implications	64
Employer contribution rates	64
The cost control mechanism	66
5. Ways to communicate LGPS2015 to Scheme members	69
On-line resources for scheme members	69
On-line resources for employers	70
Member briefing leaflets	71
6. Governance arrangements	72
The national Scheme Advisory Board and local Boards	72
The Pensions Regulator	74

Foreword

The Local Government Pension Scheme (Scotland) Regulations 2014 (SSI 2014 No. 164), in essence the 2015 Scheme equivalent of both the Benefit, Membership and Contribution Regulations 2008 and the Administration Regulations 2008, will come into force on 1 April 2015.

To complete the picture, regulations which deal with pre-1 April 2015 membership were laid before Scottish Parliament on 22 August 2014, the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (SSI 2014/233) which also come into force on 1 April 2015.

At the time of compiling this version of the notes to accompany several seminars being held in September 2014, although the regulations are in place, there may be need for some minor technical amendments to those and, moreover, the associated (predominantly actuarial) guidance from Scottish Ministers was not yet available.

It is therefore impossible to be definitive in exactly how every aspect of the LGPS will operate going forward and it is planned to have several detailed workshops available from January 2015, particularly aimed at administering authorities who face the brunt of physically administering the Scheme.

For ease of reading, rather than constantly referring to regulations and regulation numbering in these notes, the author often simply refers to the requirement for an employer to perform particular actions or tasks. This is done on the basis that the guidance notes do appear as we expect them to and that certain technical amendments are made to the 2014 Regulations as we believe they will. Obviously, things may change or be clarified between now and April and this printed material may quickly become out-of-date or even become technically incorrect in some areas.

You are advised to keep a watchful eye on a new area of our website www.lgpsregs.org/index.php/scotland. Information will be added to the site as and when it becomes available. In addition, of course, it is always a good idea to keep an eye on the LGPS Useful Resources section of SPPA's website www.sppa.gov.uk.

Finally, these notes do not cover Councillor members who already have a career average scheme. The scheme changes for Councillors from 1 April 2015 will be the subject of a leaflet which should be available in late September.

I hope you find these notes of assistance at this time.

Tim Hazlewood

Pensions Training & Development Manager

1 SCHEME OVERVIEW

A Career Average Pension

The Local Government Pension Scheme (LGPS) in Scotland is set to move to a CARE basis from 1 April 2015. A career average scheme is still a defined benefit scheme, but with an important difference in how the pension is calculated.

In a final salary 60ths scheme each accrued year earns an additional pension equal to the final salary divided by 60. Of course at the point in time membership is accrued, final salary is not yet known and could only be estimated.

In a CARE 60ths scheme, each accrued year would earn an additional pension equal to the salary for that year uprated to retirement (using a specified revaluation rate) divided by 60. Once again, at the point in time membership accrued, the CARE figure is not yet known and could only be estimated.

In the unlikely event that the person's pay rose **exactly** lock-step with the method of indexation, the outcomes would be exactly the same in a CARE scheme as it would be in a final salary scheme.

Steady Eddie

Eddie was a member for 5 years and his pay increases by 4% per annum.

His pay for those 5 years was as follows:

Year	Earnings	Revalued Earnings	
1	£20,000	+4%+4%+4%+4%	= £ 23,397
2	£20,800	+4%+4%+4%	= £ 23,397
3	£21,632	+4%+4%	= £ 23,397
4	£22,497	+4%	= £ 23,397
5	£23,397	+0%	= <u>£ 23,397</u>
			£116,985
Final Pay	=	£23,397	
CARE	=	£116,985 / 5 = £23,397	

Of course, Eddie is totally hypothetical and highly improbable. Some people would gain from moving from 60ths final salary to 60ths CARE and some people would lose, depending on how their actual income rose over time relative to the revaluation rate.

For LGPS2015 it has been decided that the accrual rate will be 49ths and the revaluation rate will be the consumer prices index (CPI). The Government Actuary's Department (GAD) believe that, broadly speaking, a 60ths final salary scheme is equivalent to a 49ths CARE scheme with CPI indexation.

In real life, career average pay calculations can be rather complex. The State Earnings Related Pension Scheme (1978-2002) was a career average scheme, as are Guaranteed Minimum Pensions (1978-1997) resulting from contracting-out of SERPS.

Here is an example of a GMP calculation for a person who commenced in the LGPS in May 1988 and retired at State Pension Age in July 2001:

	Earnings	Percentage revaluation	Revalued Earnings
1988/89	12005	97	£23,649.85
1989/90	11880	77.8	£21,122.64
1990/91	14366	65.7	£23,804.46
1991/92	16688	50.5	£25,115.44
1992/93	17603	41.3	£24,873.04
1993/94	18235	34.6	£24,544.31
1994/95	18657	30.6	£24,366.04
1995/96	19690	25.1	£24,632.19
1996/97	20078	21.7	£24,434.93
		Total	£216,542.90

$$\frac{20\% \times £216,542.90}{23} \div 52 = £36.21 \text{ a week}$$

Deriving the weekly GMP from the actual earnings is simply a matter of:

- revaluing the earnings (in the case of GMPs in the LGPS, the revaluation is in accordance with annual Orders made that are in line with a measure of earnings inflation – commonly referred to as Section 148 Orders),
- taking account of the accrual rate (the design of SERPS from 6/4/88 was 1/100th per year to a maximum of 20 years, hence 20%),

- the “working life” for SERPS purposes (so averaging the pay over a period of time – 23 in this case not being the years of membership of the LGPS but the years from 6/4/78, the beginning date for SERPS, to the 5th April before SPA), and finally
- annual to weekly conversion (hence the divisor of 52).

Don't worry - we're not going to spend any more time on SERPS and GMPs! They are included here simply for you to observe the record keeping requirements in order to perform the career average calculation.

As it is presently possible to join the LGPS at age 16 and remain a member until the age of 75, there would be a need to keep a record of earnings covering a 60 year period!

There is an alternative solution however which is much simpler to administer and understand. That is to operate an account-based system which, thankfully, LGPS2015 is designed around.

Pension Accounts – a whole new concept

Rather than record pay over a person's career and then average that out, multiplying the result by the person's membership and then dividing by the accrual rate(s), you simply calculate the pension in respect of each year and then revalue that by the chosen method of pay revaluation.

Eddie's pension from page 4 based on a career average pay of £23,397 would be as follows if the accrual rate was 49ths:

$$\frac{\text{Membership}}{49} \times \text{Career Average Pay}$$

$$5/49 \times £23,397 = £2,387.45$$

Alternatively, we could calculate his pension each year, adding on the revalued accrued rights to the previous year.

Year 1	£20000/49	=	£ 408.16
Year 2	£20,800/49 = £424.49 + (£408.16 x 1.04)	=	£ 848.98
Year 3	£21,632/49 = £441.47 + (£848.98 x 1.04)	=	£1,324.41
Year 4	£22,497/49 = £459.12 + (£1,324.41 x 1.04)	=	£1,836.51
Year 5	£23,397/49 = £477.49 + (£1,836.51 x 1.04)	=	£2,387.46

The difference of one penny per annum is purely down to roundings.

The known pensionable pay in each year is simply divided by 49 to arrive at the pension earned in each year. Next year that pension is indexed and added to a 49th of his pensionable pay in the next year. And so on. No need to retain decades of salary history.

Also, a lot of the membership recording necessary for a final salary scheme disappears overnight, saving a huge amount of administration. Recording proportions of membership for term-timers, part-timers, part-time-term-timers, variable timers all become unnecessary, as does grossing up pay to a whole-time equivalent. The only real record of service needed is to establish whether someone has the requisite two years' active membership in the Scheme to qualify for benefits in the first instance.

It also benefits the individual as their accrued rights are more transparent which should make financial planning easier. Indeed, it can be argued that CARE scheme administration can be much simpler for all concerned.

Of course, in practice there will be necessary complications. There will be times when "actual pay" needs to be replaced by a "notional pay", for example on certain child-related leave. We will look at these issues later in these notes and we will also look at the protections afforded to members who have membership pre-1 April 2015 and the ramifications of maintaining the final salary link for that membership.

Different types of account and revaluation

What we have looked at so far are active accounts. If a person retires, the money simply transfers into a pensioner account and commences to be paid. If they leave before retirement age, the money is transferred to a deferred account. There are also survivors' accounts and others to cover the various types of member and beneficiaries under the terms of the LGPS.

Active accounts will be revalued by HM Treasury Order each year. Benefits for non-actives will attract pensions increase, as before, authorised under annual Pensions Increase (Review) Orders.

Care is needed in the year of leaving/retirement to ensure that each member gets the correct level of inflation-proofing, i.e. not too little (not receiving the part-year revaluation on earnings) and not double indexation (receiving both earnings revaluation and pensions increase for the same period in time), but this is a matter that will be dealt with by each administering authority and is not the responsibility of a Scheme employer. The actual mechanics are not therefore discussed further in these notes.

Joining the Scheme

All types of Scheme employers are now listed in Schedule 2 of the regulations. There is no change to the range of employers given access, simply a matter of naming them all in the same schedule. These are:

- Part 1 “Scheduled” bodies – those employers that must make the LGPS available to all eligible employees; and

- Part 2 “Admission Bodies” – those employers participating in the LGPS through an admission agreement which will specify which employees are eligible for membership.

Excluded from eligibility are those employees aged 75 or above, those eligible for membership of another public sector pension scheme (although there are some with “dual” eligibility for the LGPS and NHSPS) and those employed by an admission body who are members of another occupational pension scheme. Part-time employees of the Scottish Fire and Rescue Service on terms under which the retained or voluntary member is or may be required to engage in fire-fighting are not eligible either.

As before, if eligible for membership of the LGPS, a person is contractually enrolled into the LGPS from the first day of employment or the first date they become eligible, if later, providing they have a contract of employment for at least three months.

A person employed under a contract of employment of less than 3 months is contractually enrolled on their automatic enrolment date. This means that an “eligible jobholder” with a contract of less than 3 months would join the LGPS on the first day of employment unless the employer issues a “postponement notice” delaying the automatic enrolment date. “Non- eligible jobholders” and “entitled workers” with a contract of less than 3 months would not be contractually enrolled on commencement but, if they subsequently became an “eligible jobholder” under that contract, they would be contractually enrolled from the first day of the “pay reference period” in which they first became an “eligible jobholder” (although, once again, an employer could issue a “postponement notice” delaying the auto-enrolment date).

By issuing a postponement notice, employers who have passed their “staging date” can, if they wish, effectively exclude such employees from the LGPS, although the employee has the right to opt into the LGPS at any time.

If a person employed under a contract of less than 3 months has that contract extended to be for 3 months or more and they have not already joined the LGPS they should be brought into the Scheme on the first day of the payment period following the extension to the contract of employment.

NB: Those terms highlighted in quotations marks in the text above are to be construed in accordance with the Pensions Act 2008.

Opting-out, rejoining and auto-enrolment

Opting-out

A person ceases to be an active member in an employment from the date they specify in a written notice given to their employer that they wish to leave the Scheme (an opt-out form).

If they specify no date, or a date earlier than the date the notice is given, they cease to be an active member in that employment at the end of the payment period during which the notice is given (so from the end of the week, end of the month and so on).

If they opt out within 3 months, they will be treated as not having been a member of the LGPS on that occasion and will be entitled to a refund via payroll.

Opting out after 3 months but before 2 years, they would be entitled to claim a refund via the Pension Fund unless they are disqualified from receiving a refund e.g. they already have, in an LGPS Fund in Scotland, a deferred pension or a pension in payment (in which case they would be entitled to a deferred benefit).

If the opt-out was at or after 2 years, they would be entitled to a deferred benefit.

It is important to note that, once an employer has reached its staging date (for the purposes of the Pensions Act 2008), it is not allowed to issue an opt-out form to its employees. Instead, the opt-out form must be obtained by the employee direct from the administering authority. Indeed, many administering authorities have changed their procedures already so that opt-out forms can only be obtained directly from them for all employers participating in the Fund, irrespective of whether their staging date has been reached or not.

A person cannot complete an opting out form before commencing employment.

Employers should agree with their Pension Fund administering authority the information to be sent to the administering authority in respect of an optant out and the process for retention of the opt out notice.

Rejoining

A person who is eligible for membership, but who is not an active member in that employment can apply to their employer to join the Scheme. If they do, they become an active member in that employment in the main section of the Scheme on the first day of the payment period following the application.

A person is free to opt out of the Scheme and rejoin as many times as they wish. A rule allowing employers to block applications to rejoin if a person had already opted out twice was removed from the LGPS many years ago.

Auto-enrolment

An “eligible jobholder” who is eligible for membership of the Scheme, but who is not an active member in that employment and who doesn’t apply to their employer to join the Scheme, nevertheless becomes an active member on the automatic enrolment date or automatic re-enrolment date relating to that employment (unless the “eligible jobholder” is employed under a contract that is for less than 3 months and the employer has issued a postponement notice).

Where an employer has an eligible employee who has opted out of the LGPS and the employer has enrolled them into another qualifying scheme (for example NEST) before what would have been the eligible jobholder’s automatic enrolment date or automatic re-enrolment date, that person will not have an automatic enrolment date or automatic re-enrolment date because they are already in a qualifying scheme. They do, however, retain the right to join the LGPS at any time up to age 75.

Where employees have been enrolled into a qualifying scheme other than the LGPS, it is recommended that the employer reminds those employees on the employer’s re-enrolment date under the Pensions Act 2008 that the employee still has the right to be a member of the LGPS.

The 50/50 Option

LGPS2015 has an option that allows employees eligible for LGPS membership to elect, from the beginning of the next available pay period, to contribute less and receive less benefit in return instead of opting out of the Scheme altogether. There are significant implications to how payroll records must be maintained for such persons and these are discussed later in these notes (in Section 3).

This option to elect for the '50/50 section' (per job) simply enables members to pay half their normal rate of contribution and in return build up half pension during that period. They will still retain the full value of other ancillary benefits such as the death in service lump sum.

A person cannot elect for the 50/50 section:

- before employment has commenced, or
- for those being automatically enrolled, immediately before their automatic enrolment or automatic re-enrolment date, or
- for those opting into the LGPS, immediately before opting in, or
- for those joining upon first becoming eligible for membership after employment has commenced (e.g. upon being designated for membership by an admission body after employment has commenced) before first becoming eligible for membership.

They have to be brought into the main section first and can then opt for the 50/50 section and, if they do so before the first payroll is closed, can be brought into the 50/50 section from day one.

Members electing for the 50/50 section will see their contribution halved from the beginning of their next pay period and, from that date, their accrual rate changes from one 49th to one 98th.

The employer of a member electing for the 50/50 section is required to give the member information about the effect on that member's likely benefits as a result of that election.

It is important to note that although the regulations provide that employer contributions also reduce to half when a member opts for the 50/50 section, amendment regulations are expected to provide that the employer contribution should remain payable at the full rate i.e. 100% of the normal rate paid by the employer and not 50% of that rate. It is recommended that employers should assume this amendment has been made.

When the option lapses

This option is not designed to replace long term membership of the main section and, therefore, membership of the 50/50 section will cease from the beginning of the pay period following the employer's automatic re-enrolment date and the person would move back into the main section. This would happen irrespective of what category of worker they were for the purposes of the Pensions Act 2008.

In other words, the pay period immediately following the employer's automatic re-enrolment date will become the point in time when employees in the 50/50 section would be moved back into the main section.

It was hoped that the regulations would contain several caveats to this for administrative ease, such as not defaulting back into the main section anyone who opted for the 50/50 section in the year leading up to the employer's automatic re-enrolment date (similar to the provision with optants-out and automatic re-enrolment under the Pensions Act 2008).

Regrettably however, there are no such caveats so employers will have to make it clear, particularly when close to their re-enrolment date, that the option will lapse very shortly and a further election will be necessary if the person wants to continue with 50/50 section membership.

In addition, a person going on to no pay as a result of sickness or injury or going onto no pay during ordinary maternity, paternity or adoption leave is moved back into the main section on the first day of the next pay period (provided that the member is still on no pay at the beginning of that pay period).

Finally, a member in the 50/50 section in a job always has the right to elect to rejoin the main section in that job from the beginning of the next pay period following their election. From that pay period their contribution rate doubles and their accrual rate changes from one 98th to one 49th.

Member Contributions

Pensionable pay has been redefined for LGPS2015. This is most important and is discussed later in these notes (in Section 3 “Payroll implications”) in the context of ensuring that only those elements of pay defined in the regulations as pensionable have a contribution deducted on them.

Of course, this is not just an issue for payroll. It is a matter for the employer too because:

- on 1 April 2015 for existing members, and
- at the outset of active membership for new members (upon commencing employment, or opting in, or being automatically enrolled or automatically re-enrolled), and
- from time-to-time thereafter (including every April)

the Scheme employer has to make a decision as to the rate of contributions a member will make on pay for a job. The employer may do this on an individual basis and notify payroll, or agree an automated process with their payroll provider. The rate of contribution a member will pay has to be notified to them as soon as is reasonably practicable together with their right of appeal under the Internal Disputes Resolution procedure (IDRP).

Unlike previous versions of the LGPS, part-time members’ contribution rates will be assessed on actual pensionable pay rather than full-time equivalent rates of pay. The bandings and rates for 2015/16 are as follows:

Actual Pensionable Pay	Rate
On earnings up to and including £20,300	5.5%
On earnings above £20,300 and up to £24,800	7.25%
On earnings above £24,800 and up to £34,000	8.5%
On earnings above £34,000 and up to £45,300	9.5%
On earnings above £45,300	12%

NB: the pay bands are expected to be increased from April 2015.

As was the case with the 2009 Scheme, Scottish employers have the benefit of statutory guidance on tiered contributions “Employer Guidance for the Assessment of Member Contribution Rates” which includes a lookup table as follows:

Contribution rate	Pay Min	Pay Max	Contribution rate	Pay Min	Pay Max
5.5	up to	20,933	8.4	58,694	60,346
5.6	20,934	22,241	8.5	60,347	62,095
5.7	22,242	23,724	8.6	62,096	63,949
5.8	23,725	25,151	8.7	63,950	65,917
5.9	25,152	26,138	8.8	65,918	68,009
6.0	26,139	27,205	8.9	68,010	70,239
6.1	27,206	28,362	9.0	70,240	72,620
6.2	28,363	29,623	9.1	72,621	75,168
6.3	29,624	31,001	9.2	75,169	77,902
6.4	31,002	32,513	9.3	77,903	80,841
6.5	32,514	34,152	9.4	80,842	84,012
6.6	34,153	35,350	9.5	84,013	87,441
6.7	35,351	36,635	9.6	87,442	91,162
6.8	36,636	38,018	9.7	91,163	95,213
6.9	38,019	39,509	9.8	95,214	99,642
7.0	39,510	41,121	9.9	99,643	104,502
7.1	41,122	42,871	10.0	104,503	109,862
7.2	42,872	44,777	10.1	109,863	115,800
7.3	44,778	46,071	10.2	115,801	122,417
7.4	46,072	47,083	10.3	122,418	129,836
7.5	47,084	48,141	10.4	129,837	138,213
7.6	48,142	49,248	10.5	138,214	147,745
7.7	49,249	50,407	10.6	147,746	158,689
7.8	50,408	51,621	10.7	158,690	171,384
7.9	51,622	52,896	10.8	171,385	186,287
8.0	52,897	54,235	10.9	186,288	204,029
8.1	54,236	55,644	11.0	204,030	225,506
8.2	55,645	57,128	11.1	225,507	252,036
8.3	57,129	58,693	11.2	252,037	

For those workers employed on “zero hours” contracts, variable hour contracts and the like, the move to using actual pay in the assessment, will necessitate employers making an assumption as to what pensionable pay a person will probably receive in the Scheme year. In addition there are those part-timers who work over and above their contracted hours; their additional pay (up to normal whole-time hours) are now pensionable too. The rate that is based on that estimate of pensionable earnings will then apply for the rest of the scheme year – it is important therefore that the estimate is reasonable.

For a person who receives purely fees (e.g. a returning officer), the rate will be based on the amount of fee received, each time a fee is paid.

Any reductions in pensionable pay due to sickness, child related leave, reserve forces service leave or other absence from work are to be disregarded when assessing / reviewing the appropriate band / contribution rate.

Reattribution

The rates shown earlier will be inflation-proofed annually, and SPPA will create a new lookup table each year, so therefore employers will need to reassess the appropriate band and rate each April.

Although generally once set, the rate remains in force for the rest of the Scheme year, an employer is permitted to attribute an employee to a different rate part way through the Scheme year where there is a permanent material change to the terms and conditions of a member’s employment (e.g. on promotion, demotion, re-grading or a part-time member’s contractual hours change).

Where such a change is not considered material by the employer however, i.e. where the change is not viewed in the context of the member’s pay as significant, the employer may decide to ignore the change and assess at the next 1 April. An employer may consider frequent changes of a member’s contractual hours as not permanent changes and assess at the next 1 April.

Whenever an employer changes a member’s contribution rate, they must inform the member of the contribution rate applicable, the date from which it is to be applied and the member’s right of appeal under the Internal Dispute Resolution Procedure (IDRP).

50/50 Contributions

For the avoidance of any doubt, if a person has opted into the 50/50 section, the contributions they will pay are exactly half of those shown earlier in these notes.

The 50/50 contribution rates are therefore as follows:

Actual Pensionable Pay	Rate
On earnings up to and including £20,300	2.75%
On earnings above £20,300 and up to £24,800	3.625%
On earnings above £24,800 and up to £34,000	4.25%
On earnings above £34,000 and up to £45,300	4.75%
On earnings above £45,300	6%

Retirement Benefits

The retirement benefit provisions in LGPS2015 are pretty much unchanged but are tweaked because of the change in normal pension age (NPA) as defined in the regulations. In brief, the provisions are explained below.

Normal pension age

In LGPS2015 the normal pension age for each member is equal to their State Pension Age (SPA) subject to a minimum of age 65. If a member chooses to retire before their NPA, their pension will be reduced for early payment. If they retire after NPA their pension will be increased for late payment. NPA will be whatever their SPA is at the time that they retire. This means that members of the Scheme will have different NPAs determined by their date of birth and SPA rules at the time of their retirement.

Certain protections built into LGPS2015 mean that members will still be able to take any benefits relating to pre April 2015 service at 65 (if they have retired at that time), will retain any rule of 85 protection they were entitled to on certain membership, and some older members have an underpin. These three protections are discussed after this part of the notes.

Normal retirement

Normal retirement occurs at the age the Scheme pays benefits at NPA. Where retirement occurs at LGPS2015 NPA there is no actuarial reduction to benefits and no actuarial increase (on the post 31 March 2015 benefits) either.

Late retirement

Members who wish to work beyond their NPA will see their pension enhanced for payment after NPA. That enhancement will be calculated in accordance with guidance to be issued by Scottish Ministers. In the current Scheme where benefits are drawn later than age 65 the pension is increased by 0.014% a day (roughly 5.1% per annum).

Redundancy/Efficiency retirement

Members who leave on the grounds of redundancy or interests of the efficiency of the service and who are aged 55 and above will receive their benefits immediately and without actuarial reduction for early retirement (other than additional pension bought by the member under an Additional Pension Contribution contract or bought under a Shared Cost Additional Pension Contribution contract). It is believed that the “special cases” provision (Regulation 24(1) of the 2014 Transitional regulations) extends this right to people aged 50 if they were in the scheme on or before 5 April 2006.

Flexible retirement

Members who reduce their working hours or grade of an employment may, with the Scheme employer's consent, elect to receive their benefits immediately if they are aged 55 and above. Benefits would be reduced on account of early payment (subject to certain protections for pre-2015 members). Members would have to draw all of their pre 1 April 2009 benefits, plus all, some or none of their 1 April 2009 to 31 March 2015 benefits, plus all, some or none of their post 31 March 2015 benefits.

Choice to retire before NPA

It is also possible for a member to retire early and get an LGPS pension at any age on or after their 55th birthday but the pension will be reduced on an actuarial basis depending on how long before NPA a person is retiring.

Present actuarial reductions to benefits in Scotland are as follows:

Years Early	Pension Male	Pension Female	3/80ths Lump Sum Unisex
0	0%	0%	0%
1	6%	6%	3%
2	11%	11%	6%
3	16%	15%	8%
4	21%	20%	11%
5	25%	24%	14%
6	29%	28%	16%
7	33%	31%	19%
8	36%	35%	21%
9	39%	38%	23%
10	42%	41%	26%

Where the number of years a person is retiring early is not an exact number, the necessary interpolations are made in the table.

Revised factors reflecting later pension ages will be in place in time for the introduction of the 2015 Scheme, and **if** they follow the English and Welsh lead will look like this:

11	45%	44%	N/A
12	48%	47%	N/A
13	52%	50%	N/A

As in the 2009 Scheme, employer's consent is required if a person is under the age of 60. A significant change however is that the 2014 Transitional Regulations provide that whilst the 85 year rule will not automatically apply in full if the employer gives consent to voluntary retirement on or after age 55 and before age 60, the employer will be able to, in effect, switch the rule back on.

Where the employer does so, the position is no different to that which applied under the 2009 Scheme where an employer consented to payment of benefits on or after 55 and before age 60 i.e.

- a) the scheme member would suffer an actuarial reduction on
 - the benefits relating to their fully protected 85 year rule membership calculated by reference to the period (if any) between the date the benefits are drawn and the date the member would meet the 85 year rule, and
 - the benefits relating to their non-protected membership calculated by reference to the period from the date the benefits are drawn to NPA (2009 Scheme definition) for the pre 1 April 2015 membership; and SPA (with a minimum of age 65) for the post 31 March 2015 membership.
- b) the employer would be responsible for meeting any remaining strain on fund cost relating to the payment of benefits before age 60.

If, however, the employer does **not** switch the 85 year rule on, the scheme member would suffer an actuarial reduction, calculated in accordance with actuarial guidance yet to be issued by Scottish Ministers. Following Schedule 2 of the 2014 Transitional regulations governing this, the reduction would be based on:

- the benefits relating to their fully protected 85 year rule membership calculated by reference to the period between the date the benefits are drawn and the earlier of the date the member would have met the 85 year rule or age 65, but with a minimum reduction to age 60 where the 85 year rule is met before then
- the benefits relating to their non-protected membership calculated by reference to the period from the date the benefits are drawn to NPA (2009 Scheme definition) for the pre 1 April 2015 membership; and SPA (with a minimum of age 65) for the post 31 March 2015 membership.

So, in simple terms, if the employer switches on the 85 year rule they will pick up any strain on Fund cost as they did under the 2009 Scheme and, if they don't switch it on, the scheme member meets the strain on Fund cost of having their benefits paid early by having an actuarial reduction applied to their benefits. The cost of releasing benefits early is the same - it is merely a question of who pays.

Ill-health retirement

The basic structure of two-tier ill-health is retained. To qualify for ill-health benefits the following condition must be satisfied:

- The member is, as a result of ill-health or infirmity of mind or body, permanently incapable of discharging efficiently the duties of the employment the member was engaged in.

If this condition is satisfied, which tier of ill-health retirement a person falls into is then decided as follows:

- A member is entitled to Tier 1 benefits if that member is unlikely to be capable of undertaking any gainful employment before age 65.
- A member is entitled to Tier 2 benefits if that member (a) is not entitled to Tier 1 benefits; and (b) is likely to be able to undertake gainful employment before reaching age 65.

The enhancement of membership in respect of future membership "lost" to age 65 is replaced with pension in respect of "assumed pensionable pay" from ill-health retirement to age 65 as follows:

- Tier 1 - adjusting the active member's pension account by adding the equivalent of the amount of earned pension the member would have accrued between the day following the date of termination and age 65, if that member had been treated as receiving assumed pensionable pay for each year and fraction of a year in that period.
- Tier 2 - adjusting the active member's pension account by adding 25% of the Tier 1 adjustment described above.

There are provisions to restrict the above enhancements where a person had previously already retired on Tier 1 or Tier 2 ill-health. Basically a person who had retired on Tier 1 ill-health previously cannot receive any enhancement second-time round and a person who had retired on Tier 2 ill-health previously cannot receive an enhancement which, when added to their second period of membership, would exceed the period from the first ill-health retirement to 65.

When calculating those enhancements, if the person was in the 50/50 section at the point of retirement, the election for 50/50 is treated as lapsed.

Protection – Pre 2015 benefits

It is important to appreciate that all pensions built up before 1 April 2015 are protected. People already in receipt of a pension or with a deferred benefit entitlement are not affected in any way by these changes.

Those people who are currently a contributing scheme member will get their pre-1 April 2015 pension (and automatic lump sum, if any) based on their final pay at eventual retirement, calculated under the 2009 Scheme definition of final pay and pensionable pay. This protection is referred to as maintaining the final salary link.

This means that when a member retires, if they have membership prior to 1 April 2015, that portion of their benefits would be calculated separately. The upshot of this is that, for such active members, as well as calculating pensionable pay (and assumed pensionable pay) post-1 April 2015, the employer will need to be able to calculate final pay under the old definition too. This is discussed further in Section 3 – Payroll implications.

The other strand to pre-1 April 2015 protection is that, for this element of benefits, the old definition of NPA is retained i.e. age 65. For example, this means that any actuarial reduction for early retirement would be based on how far short of age 65 (or even “critical retirement age” for those with Rule of 85 protection) they had retired and not how far short of NPA had they retired.

The only way that this protection can be lost is if a person has a continuous break in excess of five years out of active membership of any public sector pension scheme and then aggregates their former deferred benefit entitlement with their current membership of the Scheme. Although protections are lost on aggregation, the pre 2015 membership will purchase a pot of pension in the 2015 Scheme and the size of the pension bought will reflect the loss of the 85 year rule on that transfer. “Qualifying” service will be added so that the 85 year rule on the future service can still be worked out.

Protection - The underpin

Members covered by this protection are those who:

- were active members of the 2009 Scheme on 31 March 2012; and
- were within 10 years of NPA on 1 April 2012; and
- do not have a continuous break of more than 5 years in active membership in all public service pension schemes, and
- have not already drawn any benefits from the 2015 Scheme in relation to the employment (e.g. upon flexible retirement).

The underpin is effectively an additional payment which is payable where a member meets the above criteria and would have been better off if the 2009 Scheme had continued in respect of the member's benefits that accrued from 1 April 2015 to Normal Pension Age (2009 Scheme definition).

Note that if the member had been in the 50/50 section for any of that period, the comparison is between what they could have accrued during that period if they had remained in the 2009 Scheme and what they could have accrued had they been in the main section of the 2015 Scheme during that period.

In practice the underpin calculation is most complicated. For any delegate wishing to learn more about the mathematics behind the underpin in advance of any bespoke Scottish material/guidance on the subject, take a look at a paper produced for English and Welsh authorities available on-line at <http://www.lgpsregs.org/images/AdministrationGuides/Underpinv1.3clean>

Protection - Rule of 85

Rule of 85 protections carry forward into LGPS2015 which means that Critical Retirement Age (CRA) under the 2009 Scheme is cast in stone. In their previous guidance on actuarial reductions, GAD gave the following table:

	Group 1	Group 2	Group 3
Part A	CRA	CRA	65
Part B	CRA	65	65
Part C	CRA	65	65
Part D	65	65	65

CRA and 65 refer to the rule that applies in calculating any actuarial reduction i.e. will it be based on how much earlier you have retired than your CRA or your 65th birthday. Parts, Groups and CRA are further explained below.

Parts

- Part A: membership to 31st March 2008
- Part B: membership 1st April 2008 to 31st March 2009
- Part C: membership 1st April 2009 to 31st March 2020
- Part D: membership 1st April 2020 onwards

Groups

- Group 1 member: a member who was an active member prior to 1st December 2006 and who was born on 31st March 1960 or earlier
- Group 2 member: a member who was an active member prior to 1st December 2006 and who was born on 1st April 1960 or later
- Group 3 member: a member who was not a member prior to 1st December 2006.

CRA

CRA is the earlier of

- a) the member's pre 1st December 2006 Normal Retirement Date which some members who joined the Scheme before 1st April 1998 had under Regulation 24 of the 1998 regulations (prior to being amended by SSI 2006/514);
- b) the earliest date at which the member would have satisfied the 85 year rule had the member remained in service, calculated in accordance with paragraph 4 of Schedule 2 to the Transitional Regulations, and
- c) age 65.

2015 Scheme

These protections were difficult enough to explain but with the advent of LGPS2015 it will be necessary to expand GAD's table even further in order for the protections to remain as they were. This is because LGPS2015 links Normal Pension Age (NPA) to State Pension Age (SPA) from 1 April 2015 but Group 1 members have rule of 85 protection until 31 March 2020. That protection is based on age 65 and not NPA.

For example, a member retiring at 66 who would meet the 85 year rule at 65½ would still have a protected CRA of 65. Thus, if that member was a Group 1 member and retired at age 60 they would have an actuarial reduction on their pre 1 April 2020 membership for retiring 5 years earlier than their CRA and not an actuarial reduction for retiring 5½ years early.

In addition, although Part D membership is described as membership from 1 April 2020, some things already count as Part D (e.g. certain transfers in and augmented membership) and they will have been awarded based on formulae expecting retirement at age 65 and not NPA.

It will, of course, be for Scottish Ministers to issue guidance in due course but it would appear logical if the new table broke membership into parts as follows:

Part A:	membership to 31 st March 2008
Part B:	membership 1 st April 2008 to 31 st March 2009
Part C1:	membership 1 st April 2009 to 31 st March 2015
Part C2:	membership 1 st April 2015 to 31 st March 2020
Part D1	membership served 1 st April 2020 onwards
Part D2	membership not served but counting as 1 st April 2020 onwards

This would lead to a new table as follows:

	Group 1	Group 2	Group 3
Part A	CRA (can't be later than 65)	CRA (can't be later than 65)	65
Part B	CRA (can't be later than 65)	65	65
Part C1	CRA (can't be later than 65)	65	65
Part C2	CRA (can't be later than 65)	SPA	SPA
Part D1	SPA	SPA	SPA
Part D2	65	65	65

Although this may look quite complicated, essentially the only change to the existing position is where the acronym "SPA" appears. This refers to a person's "new" State Pension Age subject to a minimum age of 65.

It is hoped by the time of the Practitioner round of training planned from January 2015 to have a series of notes available to supplement the above table (or indeed the actual table from Scottish Ministers if available) as there are an awful lot of points to note especially on "unserved" membership (purchased added years, transfers in, augmented years etc) as to which part of membership it should be allocated to.

2 HR IMPLICATIONS

General

In the previous section of these notes we have had an overview of LGPS2015 and you will have observed that its administration requirements are quite different to that of the existing Scheme, mainly because of it being an account based Scheme.

Pay cumulatives going forward are the most important aspect to make sure that benefits that accrue under the new Scheme are accurate and fair. This is the reason for the next section of these notes being the size they are.

It should be noted that the pensions function at the numerous employers participating in the LGPS doesn't conform to one standard. At some employers, the pensions function is purely an HR one, in others it is purely a payroll one and in others still, it is an amalgam of the two.

It is by no means certain therefore that the information contained in this section is **only** for HR staff and information in the next section is **only** for payroll staff although discretions policies in this section, for example, are most unlikely to fall to be a payroll responsibility.

In addition, some of the reporting necessary from payroll in the next section can only be done if colleagues in HR are giving the correct instructions and explanations to the payroll section.

For further information on the implications for HR, there will be an on-line guide at <http://www.lgpsregs.org/index.php/scotland/scot-hr-payroll-guides> which will expand on this section of the seminar notes.

Disclosing new Scheme terms

Existing members

As regulations have always provided, LGPS2015 contains a provision that as well as notifying the administering authority of all decisions it makes, each employer is bound to “give that authority [Author’s note: the administering authority] such other information as it requires for discharging its Scheme functions”.

Under The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, the Scheme Manager is required to inform Scheme members and beneficiaries of any change in basic scheme information automatically either:

- (a) before the change takes effect or
- (b) within 3 months of the effective date of the change.

Non-compliance with this piece of overriding law can result in significant financial penalties being imposed by the Pensions Regulator.

Each administering authority will have its own communications policy statement covering, amongst many other things, how it communicates with Scheme members. In the case of active members, many administering authorities communicate via their employers as this is most cost effective.

Employers should therefore expect contact from their administering authority (or in the case of some admission bodies, their administering authorities) as to the formal notification of new Scheme terms for their existing employees if this is to be done via the employer.

It would be most helpful in this respect, regardless of the communication channel selected by the administering authority, if employers could double-check that details of **every** employee who is a member of the Scheme on 31 March 2015 have been passed to the administering authority.

New members

There is no particular need for administrative procedures from 1 April 2015 to change although, obviously, documentation will alter on account of the new Scheme.

Under Disclosure of Information legislation, basic information about the Scheme has to be provided by the administering authority:

- a) automatically to prospective members (i.e. those people who are about to take up employment) and
- b) on request to existing members.

That information has to be provided within (a) 2 months of joining the LGPS or (b) within 2 months of the request being made respectively. It should be noted that if a person has become a member as a result of overriding auto-enrolment provisions for eligible jobholders, that this time limit is reduced to just six weeks. Again there are not insignificant fines for non-compliance.

It is vitally important that the administering authority is told of new members at the earliest opportunity. As the process for doing this historically always involved obtaining paperwork from the member, to get over the problems of missing “forms”, some administering authorities have moved to obtaining details of new members from their employers in an electronic format whilst others have moved to their employers having direct access to the pensions administration software.

If the process is still paper-based, each person who becomes a member should complete a “basic details” form and each administering authority will have designed their own. The employer should then pass this form, together with any necessary supplementary information to the administering authority.

For those employees who do not fill out the necessary form, it is recommended that the employer should pursue that employee to complete it. This is most important not just to comply with record keeping requirements in law but also because many new starters have previous pension rights (in the LGPS or elsewhere) and the ability to transfer pension rights into the LGPS from elsewhere, or to decide whether to keep existing LGPS deferred benefits separate or alternatively to aggregate membership together, is time-limited. Furthermore, it is necessary to determine whether or not a member who has previous LGPS rights has had a break in continuous active membership of public service pension schemes of more than 5 years (for the purposes of determining whether or not there is an ongoing final salary link on pre 1 April 2015 membership).

Whether the employer is successful in getting a completed form or not, it is vitally important that details of the member are passed across to the administering authority as soon as possible after commencement.

Sickness/injury

The structure of ill-health retirement in LGPS2015 has already been covered in these notes in Section 1 under the heading of “Retirement Benefits”.

In Section 3 of these notes (under the heading of “assumed pensionable pay”) we will look at the payroll implications of going onto reduced contractual pay or no pay as a result of sickness or injury. Also in Section 3, under the heading of “employee and employer contributions during absences”, we will look at just that, what contributions are due at what time and by whom.

We are looking at this topic again here because, inevitably, the management of sickness absence is an HR function as is, ultimately, the decision to terminate employment on the grounds of permanent ill-health or incapability.

At present, if a member is on leave due to sickness or injury and has a period of full contractual pay, then goes on to a period of reduced contractual pay and then on to no pay, the member and the employer would

- during the full contractual pay period, pay basic pension contributions on the pensionable pay received (before any reduction on account of Statutory Sick Pay or Incapacity Benefit),
- during the reduced contractual pay period, pay basic pension contributions based on the pensionable pay received (before any reduction on account of Statutory Sick Pay or Incapacity Benefit), and
- during the no pay period, pay no basic pension contributions.

This means that inevitably although the member is accruing full membership of the Scheme, the Pension Fund is receiving far less than it needs in contributions to cover the liability it is accruing, especially in the case of no pay sickness.

Whilst the employee will, in the 2015 Scheme, pay a contribution received on actual pay received (if any) it has been decided that the employer will pay contributions on “assumed pensionable pay” (discussed later in Section 3, but akin to notional pay the person would otherwise be receiving but for the sickness or injury) during the period the employee is on reduced contractual pay or no pay. This means that from 1 April 2015 employer contributions will be payable “in full” in cases of long-term sickness absence.

Any member in the 50/50 section of the Scheme will automatically revert to the main section of the LGPS from the beginning of the first pay period after going on to no pay, provided the employee is still on no pay at that time. This is, of course, in the person's interest but still needs to be communicated to them.

Technically, for those employers who do not pay contractual pay for the first three days of any absence, it is possible for the no pay to straddle two pay periods and for this movement to the main section to be triggered. This is likely to cause some irritation to the Scheme member so employers are advised to draw this to the attention of their employee and get them to complete a new 50/50 election before their payroll closes. Alternatively, the employer might wish to review their policy.

There will also be a number of people who are paying additional contributions. The implications of these are discussed in "Employee and employer contributions during absences" in Section 3 too, but again are mentioned here because communicating what must happen or what may happen with the different types of additional contribution isn't necessarily a payroll function at all employer sites.

Absences

Reference to child-related leave and other absences is also made in Section 3 of these notes. The purpose of covering them in this section is purely to look at the rights people have and the HR procedures necessary, on the assumption that it is HR who is responsible for discharging the employer duties on child-related leave and other absences. Any standard forms / paragraphs used will have to be amended to reflect these changes.

Whilst most of the rules have not changed from the 2009 Scheme (member's right to elect lapses after 30 days from returning to work unless the employer agrees to extend this deadline, maximum unpaid leave period 3 years etc.) some of the rules have, notably:

- The option for a person who has been on strike to make a decision is no longer limited to 30 days from the end of the recognised trade dispute. As the cost will be entirely met by the member, the option is now open ended.
- Deducting mandatory contributions on the first 30 days of authorised unpaid leave of absence has now gone, so it is now optional throughout the entire leave period.

Authorised unpaid leave and absences due to industrial action

Under the current (2009) Scheme, an employee and their employer have to pay contributions on the first 30 days of authorised leave of absence and the employee is offered the opportunity to pay "their" contribution on the "lost" pay for a period beyond 30 days. If they do decide to pay then the employer contribution also falls due. If the employee is absent due to industrial action they are offered the opportunity to buy back the period for pension purposes by paying a special rate of 16% of pensionable pay (and there are no employer contributions).

In LGPS2015, it will not work in quite the same way. Instead, if the person wants to buy back the "lost" pension, they will have to pay an Additional Pension Contribution (APC) which will be calculated in accordance with guidance from Scottish Ministers. All bar strike, the employer will contribute towards the cost (as they do now) – but with the split being 1/3rd employee, 2/3rds employer, providing the employee elects normally within 30 days of returning to work to buy-back the "lost" pension. In LGPS2015 this is referred to as the payment of Shared Cost Additional Pension Contributions (SCAPCs). If the employer does not extend the 30 day time limit, the employee can still make an election after 30 days have passed, but then the cost falls wholly to the employee (an APC).

Child-related leave is a little more complex (as it is now) and Reserve Forces Service Leave is also different. These are discussed separately next.

Child-related leave

During the period of ordinary maternity leave (OML), ordinary paternity leave (OPL) or ordinary adoption leave (OAL) and any period of paid additional maternity leave (AML), paid additional paternity leave (APL) or paid additional adoption leave (AAL) the member will accrue 1/49th of assumed pensionable pay if they are in the main section or 1/98th of assumed pensionable pay if they are in the 50/50 section.

For a Keep In Touch (KIT) day during that period the member will accrue 1/49th of the pensionable pay received for that day, if greater than assumed pensionable pay, if they are in the main section or 1/98th of the pensionable pay they received for that day, if greater than assumed pensionable pay, if they are in the 50/50 section.

For any period of unpaid additional maternity leave (AML), unpaid additional paternity leave (APL) or unpaid additional adoption leave (AAL) the person will be able to pay optional contributions to buy back the “lost” pension. The amount payable would be determined in accordance with guidance from Scottish Ministers and if they elect to do so within 30 days of returning to work, as now, the employer will contribute (but with the split being 1/3rd employee, 2/3rd employer in LGPS2015). The employer can extend the 30 day time limit but if they do not, the employee can still, whilst an active member, make an election after 30 days with the cost falling wholly to the employee (an APC).

The amount of pension purchased by a SCAPC (or APC) will be added as an adjustment to the pension accrual in the year that the SCAPC (or APC) payment is made (or payments are made). If no SCAPC (or APC) contract is entered into then the pension accrued in the year will be less. However, for any KIT day worked during a period of unpaid additional maternity leave (AML), unpaid additional paternity leave (APL) or unpaid additional adoption leave (AAL) the member will accrue 1/49th of the pensionable pay received for the KIT day (if they are in the main section) or 1/98th of the pensionable pay received for the KIT day if they are in the 50/50 section.

Reserve Forces Service Leave

Under the 2009 Scheme, the situation regarding Reserve Forces Service Leave is rather convoluted and different rules apply according to whether the reservist receives less, the same or more pay whilst they are on leave of absence.

In LGPS2015, things have changed considerably by introducing an assumed pensionable pay solution. Effectively the employer will calculate a notional pay figure whilst the reservist is on leave and drop that into the person’s cumulatives (i.e. into the main or 50/50 section) so the person continues to build up a pension as if they were still at work. The employer would pay no

employer contribution to the Fund on that assumed pensionable pay (see Section 4 under the heading “employer contribution rates”).

The employer would then tell both the reservist and the Ministry of Defence of the assumed pensionable pay and the employee and employer contribution due on that amount. The MoD would deduct the employee contribution from the reservist and pay that contribution, together with the employer contribution, directly over to the administering authority.

If the employer continues to pay the reservist some pay whilst they are on reserve forces service leave, neither employee or employer contributions are payable on that pay - because contributions are payable on the assumed pensionable pay figure instead and that pay is not added into the person’s cumulatives (i.e. into the main or 50/50 section) because it is non-pensionable and the assumed pensionable pay is added into the cumulatives instead.

Pre-2015 benefits and protections

Whole-time equivalent pay for any period of ordinary maternity leave (OML), ordinary paternity leave (OPL) or ordinary adoption leave (OAL) and any period of paid additional maternity leave (AML), paid additional paternity leave (APL) or paid additional adoption leave (AAL) will count in the calculation of final pay for the pre 1 April 2015 benefits (i.e. if that period of leave of absence were to fall in the final pay period to be used for calculating the pre 2015 benefits). It will also count for the purposes of the “85 Year Rule” and the “underpin”

If the member wishes the period of unpaid AML, APL or AAL to count in the final pay calculation for the pre 1 April 2015 benefits (i.e. if the unpaid leave of absence were to fall in the final pay period to be used for calculating the pre 2015 benefits) and/or for the purposes of the 85 Year Rule and/or the underpin, they would have to enter into an APC / SCAPC to cover the “lost” pension for that whole period of unpaid leave of absence.

The period of absence would then have been “bought” for the purposes of the final pay calculation in respect of the pre 2015 benefits, 85 Year Rule and underpin. Indeed, the same holds true for any other type of unpaid leave of absence because some “missing days” in the final year (normally) can adversely affect the calculation of final pay under the 2009 Scheme, and will affect the 85 Year Rule attainment date and also the underpin calculation.

Whilst we would not necessarily expect HR professionals to be fully conversant with the consequences, in pre-2015 membership terms, of not paying additional pension contributions in certain circumstances, the employee should be made aware that there are implications, and pointed in the direction of further information on the subject.

Separate contracts?

Separate pension records must be maintained for each job the employee holds unless the employer determines that a single employment relationship exists. This is no different to current LGPS regulations that require separate pension records for separate employments.

It is also the same requirement as under automatic enrolment legislation where, if a worker has genuinely separate contracts, then the earnings from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the worker is an entitled worker, a non-eligible jobholder or an eligible jobholder.

Although not a change from the current requirements, the need to calculate pensions on a year by year basis means that separate payroll records are vital to the task. Therefore it is essential that the payroll section/provider knows the basis on which people are employed and the reason for any changes that are notified from HR.

Examples of where the employer may determine a single employment relationship exists are:

1. Two concurrent employments where, if one is terminated, the other must be terminated at the same time,
2. Two sequential employments without a break (e.g. a promotion).

In either example above, the administering authority would require one set of cumulatives.

Alternatively, for example, the administering authority would require separate cumulatives where there are:

1. Two concurrent employments where, if one is terminated, the other would continue,
2. Two sequential employments with a break (e.g. ceasing one job and sometime thereafter securing further employment).

Where separate employment relationships exist and where the person is being paid on timesheet claim, it is imperative that timesheet design (and instructions for completion from HR) includes information that identifies which hours are in relation to which job.

Discretions policy

As is the case with the existing Scheme, each employer will be required to formulate, publish and keep under review a policy statement in relation to the exercise of a number of discretions under the LGPS.

The LGPS2015 regulations stipulate this requirement in five areas, namely:

- Award of additional pension (whole cost by one-off lump sum);
- Voluntarily funding additional pension (Shared Cost Additional Pension Contributions either by regular ongoing contribution or one-off lump sum);
- Flexible retirement;
- Waiving all or part of any actuarial reduction; and
- Switching on the Rule of 85 for members who, with the employer's consent, voluntarily draw benefits on or after age 55 and before age 60.

Where relevant, employers will already have a discretions policy under the 1998 Scheme (governed by the 1998 Regulations) as follows:

Employer Discretion 1998 Regulations	Regulation
Grant application from a post 31.3.98 / pre 1.4.09 leaver for early payment of benefits on or after age 50 and before age 60	30(2)
Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98 / pre 1.4.09 leaver	30(5)
Pre-1.4.09 optants-out only get benefits paid from NRD if employer agrees	30(7A)

Where relevant, employers will already have a discretions policy under the 2009 Scheme (governed by the 2008 Regulations) as follows:

Employer Discretion 2008 Regulations	Regulation
Whether to augment membership of an active member (by up to 10 years)	B12
Whether to grant additional pension to a member (by up to £5,000 p.a.)	B13
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	B18(2)
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	B18(4)
Whether to grant application for early payment of benefits on or after age 55 and before age 60	B30(2)
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early	B30(5)

Whilst augmentation simply falls away, others are replaced by identical or similar provisions in LGPS2015 (granting additional pension, flexible retirement and waiving actuarial reductions). This will necessitate a rewording of existing policies to make the correct regulatory cross-references going forward, at least.

NB: Employer's consent to retirement pre-age 60: Although the equivalent to 2009 Benefit Regulation 30(2) – 2014 Regulation 29(13) – isn't subject to the declaration of a written policy per se, because 2014 Transitional Regulation Schedule 2, paragraph 1(1)(c) is subject to a written policy (i.e. whether the employer "switches back on" in full the Rule of 85 in such circumstances) effectively it is.

It will also be necessary to draw up a new list of discretions for post-31 March 2009 / pre-1 April 2015 leavers as the employer will still have to publish a policy in respect of its discretions for these leavers.

Employers are advised to consider their policy statements in advance of 1 April 2015 with a view to having them in place (and copied to the administering authority) **before 1 July 2015** as this is a requirement of LGPS2015.

3 PAYROLL IMPLICATIONS

General

The LGA in association with other interested stakeholders has worked on a detailed payroll specification. This was made available for all employers and payroll providers in the first week of September 2014 and is available at: <http://www.lgpsregs.org/index.php/scotland/scot-hr-payroll-guides>

It is not a replacement for any current requirements agreed with the LGPS pensions administrator in respect of information to be provided, rather it is intended to inform payroll providers of the minimum additions and/or changes needed to effectively manage the 2015 Scheme.

The document is comprehensive and includes:

- Data to be submitted to pensions administrators;
- Records to be maintained;
- The two sections in the new Scheme;
- Cumulative Pensionable Pay amounts to be calculated and stored;
- Cumulative Contribution amounts to be calculated and stored;
- Data to be calculated in respect of the 2009 Scheme;
- Final pay going forward, including hours changes and breaks;
- Payments due in respect of a period prior to 1 April 2015 that are paid after 31 March 2015;
- Absences spanning 31 March 2015 / 1 April 2015;
- Monthly payover of contributions, and
- End of year template report.

Rather than unnecessarily repeating **all** of the information and examples contained in the detailed specification here, the rest of this section seeks to explain the implications for payroll as simply as possible.

Separate records for each job

Separate records of cumulative amounts must be maintained for each job the employee holds unless the employer determines that a single employment relationship exists. This is no different to the current LGPS regulations that require separate pension records for separate employments. It is also the same requirement as under automatic enrolment legislation where genuinely separate contractual arrangements exist.

Although not a change from current requirements, the need to calculate pensions on a year by year basis means that separate records are vital to the task and therefore worth re-emphasising.

Whilst obvious (hopefully), it is essential that the separate cumulatives for the same person are uniquely identified in such a way that the administering authority understand which of the person's records each of the cumulatives are intended for.

Example – multiple employments

An employee has two concurrent part time jobs with the same employer who has not informed payroll that a single employment relationship exists.

The data should be supplied to the LGPS pensions administrator as two lines of data, both identifiable as the employee (e.g. NI Number) but each uniquely identified as different jobs (e.g. post/payroll number).

If one of the jobs ceases this should be treated as a leaver for pension purposes (with the data in respect of that leaver available for reporting to the LGPS administering authority at the date of leaving).

Example - promotion

An employee is promoted to a new job and no termination of employment notice has been received by payroll.

The data should be supplied to the LGPS pensions administrator as a single set of cumulatives which include amounts from both jobs.

Separate records for 50/50 membership

After commencement of employment, the following circumstances may lead to a change of section during the Scheme year.

- Notification that the employee has elected to move either way between the main section and the 50/50 section from the beginning of the next pay period following the election.
- If the employee is in the 50/50 section and goes onto no pay due to sickness or injury or during ordinary maternity, paternity or adoption leave, the employee must be moved back into the main section from the beginning of the next pay period if they are still on no pay at that time.
- If the employee is in the 50/50 section they must be moved back to the main section from the beginning of the pay period following the employers' re-enrolment date. This would happen irrespective of what category of worker they are for the purposes of the Pensions Act 2008. Note that the *initial* staging date for those employers yet to meet their staging date has no implication on 50/50 elections.

The dates an employee joined and ceased membership of a section must be held (per job where necessary). Employers will need to provide the dates of movements between sections to the administering authority when they occur and at year end or when an employee ceases membership. Each employer will need to determine the most effective method to achieve this which may or may not involve the payroll system holding these dates.

Separate cumulative amounts for pensionable pay and employee contributions should also be maintained for each section.

It should be noted that if a member moves to the 50/50 section:

- any existing additional pension contribution which is at whole cost to employee (EAPC) **must cease** (unless it is to purchase an amount of pension "lost" due to a trade dispute);
- any shared cost additional pension contribution (ESCAPC/ RSCAPC) **must cease** (unless it is to purchase an amount of pension "lost" during a period of authorised leave of absence or during a period of unpaid additional maternity, paternity or adoption leave).

Moving to the 50/50 section has no impact on any types of AVC being paid or on the member's ability to start to pay AVCs in the future.

Although unlikely, it is possible for a member with two (separate) concurrent jobs to opt for the 50/50 section in only one of those jobs. If this is the case, the person would be paying full contributions into the main section in one job, and half contributions into the 50/50 section in the other. Similarly, they would be accruing a pension at 49ths and 98ths respectively.

Pensionable pay redefined

The structure of the definition of Pensionable Pay is basically the same as the current Scheme – i.e. all payments in respect of the job apart from those listed in the regulations as exclusions. The biggest change is that non-contractual overtime has been defined as “overtime above the hours of the standard full-time working week that the employee (part-time or full time) is not contracted to work”.

So, if an employer has a standard full-time working week of 37 hours and a person had a contract for 15 hours but worked for 20 hours, all those 20 hours pay would be pensionable. If they worked 30 hours this would still be the case. If, however, they worked 42 hours, only 37 of those hours would be pensionable – the other 5 being classed as non-contractual overtime and therefore excluded from pensionable pay.

Another change is that a payment in consideration of loss of future pensionable payments or benefits is, from 1 April 2015, not pensionable. So, for example, where an employer changes an employee’s contract to remove contractual overtime and gives a lump sum payment in consideration for the loss of future pensionable payments (because the number of voluntary hours of overtime are expected to be less than the former number of contractual hours of overtime), that lump sum would be non-pensionable. Similarly, where an employer reduces the pay of an employee but offers a ‘marked time’ payment (e.g. to bring the employee’s pay up to the former rate of pay for a limited period of time) the employer could, by defining that ‘top-up’ sum in the ‘marked-time’ agreement as a sum to be paid each pay period for a period of X months in consideration of the loss of future pensionable payments make the ‘top-up’ payment non-pensionable.

A third change is that, from 1 April 2015, any actual pay paid by the Scheme employer to a reservist during Reserves Forces Service Leave is not pensionable. Note that whilst on reserve forces service leave the employee and the Ministry of Defence pay contributions on the amount of Assumed Pensionable Pay.

A fourth change is that any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees is non-pensionable.

The new definition of pensionable pay (Regulation 20) is as follows:

- (1) Subject to regulation 21 (assumed pensionable pay), an employee’s pensionable pay is the total of—
 - (a) all the salary, wages, fees and other payments paid to the employee, and
 - (b) any benefit specified in the employee’s contract of employment as being a pensionable emolument.

- (2) But an employee's pensionable pay does not include—
- (a) any sum which has not had income tax liability determined on it;
 - (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
 - (c) any payment in consideration of loss of holidays;
 - (d) any payment in lieu of notice to terminate a contract of employment;
 - (e) any payment as an inducement not to terminate employment before the payment is made;
 - (f) any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision;
 - (g) any payment in consideration of loss of future pensionable payments or benefits;
 - (h) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees;
 - (i) any payment made by the Scheme employer to a member on reserve forces service leave;
 - (j) payments for non-contractual overtime;
 - (k) the amount of any supplement paid to an employee whose employment was transferred on 1st April 2010, under a staff transfer scheme, from the Scottish Administration to Learning and Teaching Scotland, in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme;
 - (l) the amount of any supplement paid to an employee whose entitlement to a pension was transferred on 1st May 2010 from the SDS Scheme to the Scheme, in recognition of the difference in contribution rates between members of the SDS Scheme and the Scheme;
 - (m) the amount of any supplement paid to an employee whose employment was transferred on 1st October 2008, under a staff transfer scheme, from the Scottish Legal Services Ombudsman to the Scottish Legal Complaints Commission in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme;

- (n) the amount of any supplement paid to an employee whose employment was transferred on 1st April 2011, under a staff transfer scheme, from the Scottish Administration to Social Care and Social Work Improvement Scotland, in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme;
- (o) returning officer, or acting returning officer fees other than fees paid in respect of—
 - (i) local government elections,
 - (ii) elections for the Scottish Parliament,
 - (iii) Parliamentary elections, or
 - (iv) European Parliamentary elections.

The 2014 Transitional Regulations provide that to the above list should be added:

“any supplement paid [to an employee] in recognition of the difference in contribution rates between the principal civil service pension scheme and the 2009 or 2015 LGPS Schemes.”

This would, for example, cover such a supplement paid to a scheme member who is employed by the Scottish Environment Protection Agency as a result of a relevant statutory transfer and who, immediately, before the transfer, was a pensionable civil servant.

The 2014 Transitional Regulations also provide that, despite the entry at (f) above, if an employee’s pensionable pay at both 31st December 1992 and 31st March 1998 included an amount treated as the money value to the employee of the provision of a motor vehicle it, or any amount paid in lieu of such provision, remains pensionable until such time as the member leaves employment with the employer who was employing him / her on 31st December 1992 (otherwise than as a result of a transfer to another Scheme employer which is beyond the employee’s control) or ceases to be provided with a motor vehicle or an amount representing the money value to him / her of the provision of such a vehicle.

Salary sacrifice, bought and sold leave

HMRC approved salary sacrifice arrangements where an employee gives up remuneration in return for a tax assessable benefit in kind from which income tax liability is then removed will remain pensionable under the 2015 Scheme (where the benefit in kind is specified in the employee's contract of employment as being a pensionable emolument). Thus, the position remains the same as in the 2009 Scheme – see LGPC Circular 244 for more information.

Where holiday entitlement is sold in return for additional remuneration, the extra pay will (as in the 2009 Scheme) be non-pensionable, because it is a “payment in consideration of loss of holidays”.

Where an employee forgoes remuneration in return for additional days of holiday this is, in effect, authorised unpaid leave of absence. Many employers have introduced such cost saving arrangements as a mechanism to help deal with budget constraints. The rules and mechanics on absences are different in the 2015 Scheme and are discussed later in these notes.

Dealing with arrears of pay etc.

In the current Scheme, benefits are based on the pensionable pay **due** for a period, not pensionable pay **received** in that period. This is necessary in a final salary scheme to prevent distortions in the calculation of final pay when benefits are eventually calculated.

Benefits in the 2015 Scheme will be calculated based on the pensionable pay that is received in the Scheme year (1 April to 31 March) and not the pay due during that period. There is therefore no need to adjust pensionable pay on payment of arrears or other payments which are paid in the current pay period but not related to the current pay period.

It is important to note, however, that when dealing with pre-2015 benefits under the old definition of pensionable pay, it will be necessary to allocate arrears to the period in time it was due when calculating “final pay”.

Also, **any** pensionable pay received after 31 March 2015 which relates to a period prior to 1 April 2015 should not be included in LGPS2015 cumulatives, but rather be allocated back to the period for which it is due.

The pensionable pay for the pre-1 April 2015 element should be based on the 2009 Scheme definition of pensionable pay and not the 2015 Scheme definition of pensionable pay and the employee contribution rate should be that which applied pre-1 April 2015 also (i.e. the rate that applied to them at the point in time their arrears are in respect of which would have been calculated at a whole-time equivalent rate).

It is permissible however to use the employer contribution rate applicable at the time of payment to both the pre- and post-1 April 2015 pensionable pay.

Finally on this point, any payments made after an employee elects to join the LGPS or is automatically enrolled or re-enrolled into the LGPS that relate to a period prior to the employee joining the LGPS should not be pensionable and so should not be included in LGPS2015 cumulatives.

Cumulative Pensionable Pay

This is the total of the pensionable pay and/or “assumed pensionable pay” (described next in these notes) in either section of the Scheme in the Scheme year. Cumulative pensionable pay must be provided separately for each section (and per job) as different accrual rates will apply when calculating the pension in each section.

If the employee moves between sections more than once in a Scheme year there is no requirement to differentiate between different periods in the same section. The cumulative amounts should contain all of the pensionable pay and/or assumed pensionable pay in each section during the year.

Let’s say a member is on a salary of £24000 throughout the entire Scheme year and moves to the 50/50 section after 3 months at which point they have already earned £6000. They spend 5 months in the 50/50 section whilst they earn £10000 before moving back into the main section earning another £8000. Their cumulatives at the end of the Scheme year are £14000 in the main section and £10000 in the 50/50 section.

Pre-2015 Membership

As a result of the final salary link for pre-1 April 2015 membership (see Section 1, “Protection – Pre-2015 benefits”) it will also be necessary for the employer to be able to provide a final pay calculation under the 2009 Scheme definition.

Under the 2009 Scheme presently, in the majority of cases, final pay is the total pay on which contributions were paid, or were deemed to be paid, in the last 365 days of employment. For part-time members, the pay used is the whole-time equivalent pay.

Where either of the immediately preceding two years would yield a higher figure, then that figure is used (hence, the old adage “best of the last 3 years”). For someone leaving on 13 November 2014 for example, one would be calculating whole-time equivalent pay in the year to 13 November 2014, year to 13 November 2013 and year to 13 November 2012 to see if either of the previous years was higher than the last.

Where there is a gap in membership in the final year (e.g. due to a break in employment or some unpaid leave), then the pay is mathematically grossed up to a full year. Where absence was due to illness or injury, any reduction or loss of pay is disregarded (i.e. final pay is calculated as if the reduction or loss had not occurred). Where earnings, or a part of earnings, are derived from fees, the basis of calculation is the annual average in the last 3 years normally but the employer has discretion to use a different three year period.

If a “certificate of protection of pension benefits” had been issued, and the certificate has not lapsed, then the calculation of final pay is improved from best of the last 3 years to the greater of (1) the best of the last 5 years and (2) the best average of any 3 consecutive years in the last 13 years (all years ending on the anniversary of the date of leaving). The only proviso to this is that the first day of a selected period cannot be more than three years before the date of the reduction or restriction which led to the issue of the certificate.

The pay required for any subsequent calculation of final pay therefore covers a period of three years prior to, and ten years from, the reduction or restriction, hence a need for long-term payroll record keeping.

“Assumed” pensionable pay

This replaces the concept of notional or ‘as was’ pay in cases of reduced contractual pay or no pay as a result of sickness or injury; or reduced or no pensionable pay during relevant child related leave (i.e. ordinary maternity, paternity or adoption leave and any paid additional maternity, paternity or adoption leave); or whilst on reserve forces service leave.

In these circumstances, the amount added to the cumulative pensionable pay should be the assumed pensionable pay and not the actual pensionable pay received (if any). The only exception is where the actual pensionable pay received for any given day is greater than the assumed pensionable pay (e.g. pay from a KIT day), in which case actual pensionable pay for that given day would be added into the cumulative and assumed pensionable pay added for the other days.

The calculation

Assumed pensionable pay is calculated as an annual rate then applied to the relevant period as a proportion of that rate.

The relevant period starts on the date the employee drops to reduced contractual pay or no pay due to sickness or injury, or reduced or no pensionable pay during “relevant” child related leave, or when reserve forces service leave commences.

It should be noted that the relevant period does **not** include the unpaid additional maternity, paternity or adoption leave available at the end of “relevant” child related leave. This is treated as unpaid leave of absence and no assumed pensionable pay accrues during that period.

The annual rate is calculated as follows for a weekly paid employee:

- a) Calculate the average of the pensionable pay for the 12 complete pay periods prior to the start of the relevant period after removing any payments that are not payable every pay period (referred to in the Regulations as lump sums) but including any assumed pensionable pay already credited in those 12 weeks.
- b) Gross up to an annual figure.
- c) If 12 complete pay periods do not exist, use whatever number of complete periods are available.

Note that, although the 2014 Regulations currently refer to a 13 week average period these notes refer to a 12 week averaging period as it is understood that amendment regulations are to be issued altering the 13 weeks to 12 weeks.

For a monthly paid employee three complete pay periods should be used instead of 12 but the calculation methodology is the same.

The calculation of assumed pensionable pay can include pensionable pay prior to 1 April 2015 (i.e. where the 12 weeks / 3 months goes back beyond 1 April 2015). If so it is pensionable pay as defined in the 2009 Scheme.

Let's take an example of a monthly paid employee has received the following pensionable pay in the three complete months prior to the start of the relevant period and the employer expects assumed pensionable pay will apply for the next six months:

Month 1 £1400

Month 2 £2400 including a £1000 annual (regular) bonus

Month 3 £1400

Annual rate of assumed pensionable pay is:

$$(£1400 + £1400 + £1400) / 3 * 12) = £16800$$

Note that the £1,000 bonus is removed prior to the averaging and grossing up calculation. This is because the £1,000 has already been included in the cumulative pensionable pay prior to going on to assumed pensionable pay and so it would be inappropriate to include it again in the calculation of assumed pensionable pay (as to do so would result in double counting – but see next paragraph).

“Lump Sums”

Assumed pensionable pay, however, may be increased at the time of calculation where the employer, at their sole discretion, decides to add back into the assumed pensionable pay calculation any regular lump sum payment made in the last 12 months.

The employer must determine at the point assumed pensionable pay commences whether there is a 'reasonable expectation' that a regular lump sum payment received in the previous 12 months would have been paid again during the period where assumed pensionable pay will apply. If so, the employer will add it back into the annual rate of assumed pensionable pay.

Proportioning

When determining the proportion of the annual assumed pensionable pay rate to be added into the cumulative pensionable pay, the same method used for determining part periods for pensionable pay should be maintained. Therefore you should use whatever method you would normally use to calculate one day's pay from an annual rate.

For three days in August for example, this could be:

$$\frac{\text{Annual rate}}{365} \times 3 \quad , \text{ or}$$

$$\frac{\text{Annual rate}}{12} \times \frac{3}{31} \quad , \text{ or}$$

$$\frac{\text{Annual rate}}{12} \times \frac{3}{22}$$

Which formula you would use would depend on how pensionable pay is normally derived for a part month (and in the case of a week is it 3/5, 3/6 or 3/7 of a week's pay?) and there are probably other methods in addition to the examples shown.

Keep in Touch days

In cases of employees on relevant child related leave who return for a KIT day, the pensionable pay for that day should be added to the cumulative pensionable pay rather than the assumed pensionable pay **if** the actual is higher than the assumed pensionable pay. The assumed pensionable pay applying after the KIT day will be the same as that applying before the KIT day (i.e. there is no need to recalculate it simply because of the KIT day).

Increasing the Assumed Pensionable Pay figure

Once set, assumed pensionable pay is not subsequently adjusted unless it continues for a period that crosses two 31 March dates. Where an employee is, for example, on long term sick leave, assumed pensionable pay needs to be increased on account of inflation. It is adjusted at midnight on the second 31 March following the date the relevant period commenced.

The adjustment is the percentage adjustment specified in the Treasury Revaluation Order for that (second) Scheme year ending on that 31 March. If the relevant period continues for a further year it will be revalued again at midnight on the next 31 March, and so on.

The 50/50 rule

As mention earlier in Section 1 (Scheme Overview) under the heading "The 50/50 option" if the member was in the 50/50 section prior to dropping to no contractual pay because of sickness they are placed in the main section from the beginning of the next pay period (provided they are still on no pay at that time). The same applies to a person dropping to no pay during ordinary maternity, paternity or adoption leave.

So, for a monthly paid person dropping to no pay in the middle of August for example, the assumed pensionable pay for August would drop into the cumulative pensionable pay in the 50/50 section whereas the assumed pensionable pay in September would drop into the main section cumulative pensionable pay.

Short periods of sickness

Typically this will occur when an employer has a policy of no pay for the first X days of sickness. In these cases, assumed pensionable pay is relevant for the first X days of sickness. Adjustments do not have to be made in arrears (i.e. they are done in the pay period the actual salary is deducted).

As described in Section 2 of these workshop notes (in the penultimate paragraph of Sickness/Injury) where the absence straddles two pay periods, this will see the person moved back into the main section effective from the first day of the second pay period. The employee contribution rate should therefore be increased to that appropriate to the main section unless the person makes another 50/50 election before the next payroll run.

Reserve Forces Service Leave

Rather than replicate the existing complexity, the opportunity has been taken to simplify things considerably by introducing an assumed pensionable pay solution, as described in Section 2 under the heading "Absences".

Effectively the employer now calculates assumed pensionable pay whilst the reservist is on leave and drops that into the person's cumulatives (i.e. into the main or 50/50 section depending on which section the employee was in before going on reserve forces service leave) so the person continues to build up a pension as if they were still at work. The employer will pay no employer contribution to the Fund on that assumed pensionable pay (see Section 4 under the heading "employer contribution rates"). The employer will then tell both the reservist and the Ministry of Defence of the assumed pensionable pay and the employee and employer contribution due on that amount. The MoD will then deduct the employee contribution from the reservist and pay that, together with the employer contribution, directly over to the administering authority.

If the employer continues to pay the reservist some pay whilst they are on reserve forces service leave, neither employee or employer contributions are payable on that pay and, furthermore, that pay is not added into the person's cumulatives (i.e. into the main or 50/50 section) because that pay is not pensionable and the assumed pensionable pay will be added into the cumulatives instead.

Certificates of Protection

Detailed guidance on Certificates of Protection is awaited, however, at this stage it is apparent that:

- a) to preserve pay protection for members with final salary (pre-2015) benefits, pay records must be kept for up to 13 years after issue of a certificate. This is as is the case for certificates issued under the 2009 or 1998 regulations.
- b) pay records will need to be used to provide a Pensionable Pay Cumulative figure which will be required to be stated on a new certificate. This will be the pensionable pay in the scheme year up to the day before the reduction in pay.
- c) for members with a certificate issued under the 2009 or 1998 regulations, pay records will be required to facilitate protection for the remaining period of the certificate after 31 March 2015.

New employee rates and additional contributions

New employee rates

The employee pays contributions at the appropriate rate on all pensionable pay received **in respect of that job** (or at half that rate if in the 50/50 section).

So, if a person holds more than one employment and these are treated as separate jobs, each job (and the pensionable pay from that job) is assessed separately when determining the contribution rate for each job.

For example, referring to the contribution rate lookup table reproduced on page 15 of these notes), one job could have a rate of 5.5% and the other a rate of 5.8% if Job 1 was salaried at £20,000 and Job 2 at £24,000.

Conversely, if the employer determines that a single employment relationship exists, then the pay from each job should be combined to determine the single contribution rate. In our example, the two salaries combined would be £44,000 meaning a single contribution rate of 7.2%.

It is vitally important therefore that the payroll system “knows” that separate employment relationships either do or do not exist. If contribution rate attribution is to be a payroll system driven assessment then, if separate employment relationships exist, the jobs must be held separately.

Even if contribution rate assessment isn't being automated via payroll, separate pensionable cumulatives have to be held for each job, necessitating separate records. Of course, if there is a single employment relationship, then there will only be one contribution rate and one set of cumulatives (this could be a problem if, for example, to cope with different hourly rates on different parts of the job, the payroll system holds the single employment relationship as two separate records).

It should also be noted that any reductions in pensionable pay due to sickness, child related leave, reserve forces service leave or other absence from work are to be disregarded when assessing / reviewing the appropriate rate.

If the employee has a reduction in pay they will continue to pay contributions on the amount of pensionable pay received (if any) and **not** on any amount of assumed pensionable pay (except in the case of employees on reserve forces service leave, the special terms of which were explained in the previous sub-section of these notes).

Additional Pension Contributions

Additional Pension Contributions (APCs) can be made by both or either the employee and the employer. The cost of an APC can be met in full by the employee, or in full by the employer, or may be split between employee and employer (in any proportion agreed between the employee and employer except where it is to cover pension rights “lost” whilst on unpaid leave of absence, where the split is 1/3rd employee and 2/3^{rds} employer – see the last paragraph below). Where an employer and employee both contribute this is known as a shared cost APC (SCAPC).

Employers may agree to share the cost of APC contracts either on a one off or regular basis. Except for SCAPC contracts taken out to cover the pension “lost” during a period of unpaid leave of absence (see the last paragraph below), the employer share can vary across employees but the combined amount in respect of any individual employee will be consistent throughout the contract.

APC / SCAPC contributions may be one off or regular payments and will always be cash amounts not percentages. If the contributions are regular, payroll will be notified of the employee amount per pay period, and / or the employer amount per pay period, and number of payments in the APC / SCAVC contract.

A member who has been on unpaid leave of absence may use an APC to make up for the pension rights “lost” during that period. If they choose to do so, on all authorised absence bar strike, the employer will contribute too if the member elects within 30 days of returning to work or such longer period as the employer allows (so it will be a SCAPC). The mechanics were discussed in Section 2 under the heading “Absences” with the cost being shared 1/3rd employee and 2/3^{rds} employer.

Additional Voluntary Contributions (AVC)

Additional Voluntary Contributions can be made by the employee or, in the case of a shared cost AVC (SCAVC), by both the employer and employee. Such contributions will be either a cash amount or a percentage of pensionable pay. Payroll will be notified of the employee amount or percentage per pay period and, in the case of a SCAVC, the employer amount or percentage per pay period.

The employer share of the SCAVC can vary across employees but the proportion for any individual employee will not vary. The split between an employee’s and employer’s additional contributions for an SCAVC can be any ratio as agreed but **not** 100% cost to the employer.

Existing additional contracts

Any contributions due in part-time buy back (Preston) cases will simply continue as the membership has already been credited in full and the contributions being paid are effectively arrears of contributions outstanding.

By existing additional contracts we are talking of additional contribution contracts that are already in place by 31 March 2015. These are:

- Purchased additional membership (old “added years”);
- Additional Survivor Benefit Contributions;
- Additional Regular Contribution (ARC) contracts.

By virtue of the Transitional Regulations, these contracts will simply continue until their natural end. It is important to understand though that those additional contributions that are expressed as a percentage are a percentage of pensionable pay as defined under the 2008 Regulations not the 2014 Regulations.

Employee and employer contributions during absences

Additional Pension Contributions

During any period of sickness on reduced contractual pay or no pay, any pre-existing APC / SCAPC contracts remain payable. If the employee is in receipt of no pay the employee contributions are deemed to have been paid but the employer must continue to pay the employer contributions to a SCAPC. Any employee APCs actually collected (but not those deemed to have been paid) must be added into the employee APC cumulative and any employer contributions to a SCAPC must be added into the employer SCAPC cumulative.

During **any** period of “relevant” child related leave (ordinary maternity, paternity or adoption leave and paid additional maternity, paternity or adoption leave) any pre-existing APC / SCAPC contracts remain payable. If the employee is in receipt of no pay, the employer contributions to a SCAPC remain payable but the employee payments due to an APC or SCAPC which could not be collected roll over as a debt to be recovered from pay upon return to work.

During any period of absence due to a trade dispute any pre-existing APC / SCAPC contracts remain payable. Although the employee is in receipt of no pay for the period of the industrial action, the employer contributions to a SCAPC remain payable. The employee payments that were due to an APC or SCAPC should be deducted if there is enough pay in the period from which to deduct the payment. Otherwise, the employee payment that was due will roll over as a debt to be recovered from pay upon return to work.

During any other period of authorised leave of absence (including unpaid additional maternity, paternity or adoption leave) any pre-existing APC / SCAPC contracts remain payable. Although the employee is in receipt of no pay, the employer contributions to a SCAPC remain payable but the employee payments that were due to an APC or SCAPC which could not be collected roll over as a debt to be recovered from pay upon return to work.

For the absences in the preceding three paragraphs:

- any employee APCs actually collected must be added into the employee APC cumulative and any employer contributions to a SCAPC must be added into the employer SCAPC cumulative, and
- it might be possible as an alternative to rolling over the debt, for the individual to pay the amounts due directly to the administering authority.

During any period of reserve forces service leave any pre-existing APC / SCAPC contracts remain payable (but not via payroll). The employer sends the relevant details to the reservist to pass on to the MoD in order to get them to arrange the relevant deductions from MoD reservist pay and for MoD to pay these over to the relevant LGPS Fund.

Additional Voluntary Contributions (AVCs)

During:

- any period of sickness on reduced contractual pay or no pay, or
- any period of relevant child related leave (OML, OPL, OAL, paid AML, paid APL, paid AAL)

any pre-existing AVC / SCAVC contracts **remain payable** whilst there is enough pay to cover them. Of course, as the scheme member can cease payment of an AVC at any time, they could stop paying a contribution if they wanted to.

During:

- any other period of child related leave (i.e. during unpaid AML, unpaid APL and unpaid AAL), or
- any period of a trades dispute, or
- any period of other authorised leave

the member **may continue** with any pre-existing AVC / SCAVC and, if the member does so, the employer must meet the cost of the employer element of any SCAVC.

In all of the above cases, any employee AVCs actually collected must be added into the employee AVC cumulative and any employer contributions to a SCAVC must be added into the employer SCAVC cumulative.

During any period of reserve forces service leave, any pre-existing AVCs / SCAVC contracts remain payable (but not via payroll). The employer sends the relevant details to the reservist to pass on to the MoD in order to get them to arrange the relevant deductions from MoD reservist pay and for MoD to pay these over to the relevant AVC provider.

Payments made after leaving

Any retrospective payments that come within the definition of pensionable pay will require the relevant employees and employer contributions paid on them.

If further pensionable payments are made after termination of Scheme membership in a job and after data has already been submitted to the pension fund administering authority, the revised data (if the payment is made in the year of leaving) or new data (if the payment is made in a year after leaving) should be submitted to the administering authority together with the date the additional payment was made.

Note that if the member has pre 1 April 2015 membership, the retrospective payment will result in a recalculation of final pay and any pension already paid in respect of the pre 2015 membership (or the underpin) will need to be recalculated and, consequently, arrears of pension paid.

The additional pension derived from a retrospective payment made after leaving (e.g. from a backdated pay award or backdated re-grading) is treated as if it were received on the day before the active members account was closed and the pension in the account is retrospectively recalculated which, for a pension already in payment, would require the administering authority to calculate and pay any arrears due.

From the administering authority's viewpoint there are additional matters to consider e.g. for a pension already in payment, the additional pension amount would lead to new lifetime allowance and annual allowance checks.

System “requirements” and end of year data

This final part of this section of the notes simply bullet points out the payroll system requirements that are necessary because of all the points made so far in these notes.

It must be noted that this list may not be exhaustive as there were still some outstanding Scheme design issues at the time these notes were compiled. The detailed payroll specification on www.lgpsregs.org will be updated from time-to-time as details evolve and so that should always be your first point of reference.

On and from 1 April 2015 payroll systems will need to be able to:

- Hold each job separately where an employee has more than one job with the employer, with the ability to deduct a separate employee contribution rate in each job (i.e. the employee contribution rate in one job may be different to that in another job);
- Have the ability to potentially change the employee contribution rate each pay period (e.g. if the employer decides to alter the rate due to a material change);
- Ensure employee contribution rates are determined by reference to pensionable pay received (not whole-time equivalent pensionable pay rates);
- Hold separate cumulative figures of employee contributions paid and pensionable pay for each job;
- Hold separate employee additional pension contributions (APCs) and employee additional voluntary contributions (AVCs) per job;
- Hold separate employer additional pension contributions (APCs) and employer additional voluntary contributions (AVCs) per job;
- Have the ability to operate the 50/50 section of the Scheme on any or all of the jobs;
- Hold, separately to the main section of the Scheme, the cumulative pensionable pay for each job where the member is in the 50/50 section of the Scheme;
- Have the ability to deal with (say) the member moving between the main section of the Scheme and the 50/50 section of the Scheme and back to the main section (and vice versa) within one financial year, ensuring the cumulative figures for any periods in the main section during the year are totalled and the cumulative figures for any periods in the 50/50 section during the year are totalled;

- Report start and end dates for each period in the main and 50/50 sections;
- Calculate the assumed pensionable pay for members on reduced contractual pay or no pay due to sickness or injury, for each job;
- Calculate the assumed pensionable pay for members on reduced or no pay (a) during a period of ordinary maternity, paternity or adoption leave, and (b) during any period of paid additional maternity, paternity or adoption leave, for each job;
- Ensure the cumulative figures for pensionable pay include the assumed pensionable pay (and not the actual pensionable pay) for the periods of reduced or no pay in the two bullet points above, for each job (apart from any day(s) on which the pensionable pay is greater than the assumed pensionable pay e.g. a KIT day);
- Have the ability to deduct the appropriate employee pension contributions on actual pensionable pay received, and employer contributions on assumed pensionable pay, during the above periods of reduced pay, whilst holding assumed pensionable pay in the accumulations, for each job;
- Calculate the assumed pensionable pay for members on reserve forces service leave, for each job;
- Ensure the cumulative figures for pensionable pay include the assumed pensionable pay for the above period of reserve forces service leave;
- Ensure any actual pensionable pay paid by the employer to a member on reserve forces service leave is not included in the cumulative figure for pensionable pay, for each job;
- Do not deduct employee or employer contributions on assumed pensionable pay, or on any actual pensionable pay received, whilst an employee is on reserve forces service leave;
- Operate the 2015 Scheme definitions of pensionable pay (which will include pay elements that were not pensionable under the 2009 Scheme definition of pensionable pay and which will exclude some pay elements that would have been pensionable under the 2009 Scheme definition of pensionable pay);
- Deduct employee and employer contributions from, and include in the cumulative pensionable pay figures per job, any pensionable emoluments (e.g. child care vouchers via a salary sacrifice arrangement);

- Hold separately, per job, the pensionable pay cumulative each year as if the 2009 Scheme pensionable pay definitions were still in operation (both actual pensionable pay and whole-time equivalent);
- Report changes in contractual hours or contractual weeks to the administering authority, and report periods of unpaid absence due to a trade dispute, authorised unpaid leave of absence, or unpaid additional maternity, paternity or adoption leave which the member has not covered by payment of an APC or SCAPC, for those members who
 - were active members of the 2009 Scheme on 31 March 2012
 - were within 10 years of their NPA on 1 April 2012, and
 - have not paid pension contributions to cover the whole of the pension that would have accrued during that period

in order that the administering authority can determine whether the final salary benefit underpin for these members at NPA, or at the date of leaving if earlier, exceeds their post 31 March 2015 CARE pension;

- Report changes in contractual hours or contractual weeks to the administering authority for those members who have an 'added years' contract;
- Report periods of unpaid absence due to a trade dispute, authorised unpaid leave of absence, or unpaid additional maternity, paternity or adoption leave which the member has not covered by payment of an APC or SCAPC if the member is subject to the 85 year rule
- Report periods of authorised unpaid leave of absence beyond 36 months;
- Exclude from the post 31 March 2015 pensionable pay cumulatives (per job) any pensionable pay paid post 31 March 2015 that relates to a period prior to 1 April 2015; and
- Have the ability to split a pensionable pay cumulative figure at NPA (normally age 65) for members who were active members of the 2009 Scheme on 31 March 2012 and within 10 years of their Normal Pension Age at 1 April 2012.

End of year data

In addition to all of the regular reporting required above (periodic reporting is administratively easier on both sides rather than reporting all events at the end of the year, and is often essential in order to comply with several pieces of overriding law) the following end of year data is required. The data that the administering authority will need to calculate benefits under LGPS2015 might seem onerous but it is essential.

The data requirement table in the Section 1 of the on-line Payroll Guide opens with:

Main section Cumulative Pensionable Pay (CPP1)	The total Pensionable Pay (PP) and/or Assumed Pensionable Pay (APP) in the main section for the Scheme year (1 April – 31 March)
Main section Cumulative Employee's Contributions (CEC1)	The total employee's contributions in the main section for the Scheme year
50/50 section Cumulative Pensionable Pay (CPP2)	The total Pensionable Pay (PP) and/or Assumed Pensionable Pay (APP) in the 50/50 section for the Scheme year
50/50 section Cumulative Employee's Contributions (CEC2)	The total employee's contributions in the 50/50 section for the Scheme year

In the CARE scheme, these cumulative pensionable pay figures in the main section and 50/50 section will be used by the administering authority to calculate the earned pension that will go into the active member's account, so it's obvious why they are needed.

The end of year data requirement table also contains Cumulative Additional Employee's Contributions (CAC) per type i.e.:

- additional pension contribution (EAPC) – both where the whole cost is to the employee and also the employee element of a shared cost APC;
- additional voluntary contribution (EAVC) – Cumulative additional voluntary contributions (AVCs), if any, paid in respect of the employment by the employee.

The above will be made up of a number of elements e.g.

- additional pension contribution – whole cost to employee;
- additional pension contribution – part cost to employee;
- additional voluntary contribution – non life assurance – whole cost to employee;
- additional voluntary contribution – life assurance – whole cost to employee;
- shared cost additional voluntary contribution – pension sacrifice – part cost to employee;
- shared cost additional voluntary contribution – life assurance – part cost to employee;
- shared cost additional voluntary contribution – other – part cost to employee.

It should be noted that it is **not** necessary to hold separate cumulatives for each element. The pensions administration system will, however, have to record separate contracts for each element as some will generate extra pension (which the administering authority will also need to credit into the active member's account) whilst others are potentially refundable and others not, should the person leave or opt-out.

Also, it is necessary to provide the Cumulative Employer's Contributions (CRC) i.e. the total employer's contributions in both sections for the Scheme year. In addition, the Cumulative Additional Employer's Contributions (CARC) per type are required i.e.

- additional pension contribution (RAPC) – both where the whole cost is to the employer and also the employer element of a shared cost APC;
- shared cost additional voluntary contribution (RAVC) – Cumulative additional voluntary contributions (AVCs), if any, paid in respect of the employment by the employer.

The above will be made up of a number of elements e.g.

- additional pension contribution – whole cost to employer;
- additional pension contribution – part cost to employer;
- shared cost additional voluntary contribution – pension sacrifice – part cost to employer;

- shared cost additional voluntary contribution – life assurance – part cost to employer;
- shared cost additional voluntary contribution – other – part cost to employer.

Again it is **not** necessary to hold separate cumulatives for each element but the pensions administration system will have to record separate contracts for each element (for the same reason stated above).

The on-line Payroll Guide also gives, at Section 6, the requirements for pay and membership details for any member with pre-1 April 2015 membership. This is not discussed here as it is assumed that the delegate will already know the data requirements (and not just at year end) under the 2009 Scheme.

4 FINANCIAL IMPLICATIONS

Employer contribution rates

This is perhaps one of the simplest things to explain when it comes to LGPS2015. Employer contributions, as assessed during the normal triennial valuation process, will be payable on:

- the actual pensionable pay received by the employee in the pay period or part pay period (except where either of the two bullet points below apply, in which case the employer contributions are payable on the assumed pensionable pay figure and not on any actual pay received whilst assumed pensionable pay is in operation), and
- the assumed pensionable pay figure for the pay period (or part pay period) during which the member is on “relevant” child related leave (i.e. ordinary maternity, paternity or adoption leave or paid additional maternity, paternity or adoption leave), and
- the assumed pensionable pay figure for the pay period whilst on sick leave on reduced or no pay.

Reserve Forces Service Leave

In the case of Reserve Forces Service Leave (as discussed in several earlier parts of these notes), no contributions on either actual or assumed pensionable pay are necessary whilst on such leave because the employer contribution due will be paid to the administering authority directly from the Ministry of Defence.

50/50 Section

It is important to note that the regulations currently provide that employer contributions also reduce to half when a member opts for the 50/50 section. Although the member is paying half a contribution to get half a benefit in general terms, the potential cost of funding that benefit is more than half. This is because of some of the features of LGPS2015 which ignore 50/50 Section membership for the purposes of ill-health enhancement and survivor rights.

Should any of these benefits subsequently be paid out in respect of the member it is possible that the pre-funding objectives would not have been met in that particular case. Any underfunding would have to be taken into account in the next triennial valuation process.

It is understood that amendment regulations are to be issued to provide that the employer contribution should remain payable at the full rate i.e. the employer would pay as if the member had been in the main section, its contribution being based on actual pensionable pay / assumed pensionable pay. This would mean, effectively, that the insurances/guarantees built into the scheme for ill-health and death would be funded in advance. Of course, it is possible that, in any particular case, those events would not lead to an increased liability (e.g. no survivor benefits payable) and therefore the benefits would have been overfunded.

Any saving because of the reduced liability on the Fund of a period of 50/50 membership will be taken into account in the next triennial actuarial valuation.

Other employer contributions

The only other employer contributions due are possibly:

- The employer payment for an additional pension contribution (APC) where the cost is to be met in full by the employer;
- The employer's share of a shared cost additional pension contribution (SCAPC) – these employer contributions are mandatory when a person opts within 30 days of returning to work (or such longer period as the employer allows) to pay optional contributions during or following a period of authorised unpaid leave (excluding absence due to trades' disputes);
- The employer's share of a shared cost additional voluntary contribution scheme (SCAVC) where an employer has voluntarily set up such a scheme.

When notifying the administering authority at year-end, any SCAPCs and SCAVCs have to be shown per job. For further explanation, please refer to Section 3 of these notes under the heading "System requirements and end of year data".

Higher pensionable pay

One matter that employer's will also have to take note of, however, is that employer contributions under the 2015 Scheme will be payable on the new definition of pensionable pay which, for part-timers, includes pay for hours worked in excess of contractual hours up to full-time equivalent hours in that employment.

The cost control mechanism

The Public Service Pensions Act 2013 requires that costs are managed through a cost control mechanism which requires the scheme to set a cap, the 'employer cost cap'. This cap is used when measuring changes in the cost of the scheme as assessed at valuations and will ensure that action is taken if the cost of the scheme increases or decreases outside of the margins set around the 'employer cost cap'.

In actual fact, the cost to the taxpayer of LGPS2015 is being controlled in a number of ways including the design of the Scheme itself. The single most important factor in the benefit design is the normal retirement age being linked to State Pension Age (SPA). This should mitigate undue longevity risk. However, this feature alone may be insufficient to control the future costs of the Scheme.

In March 2014, HM Treasury published a document entitled "Public service pensions: actuarial valuations and the employer cost cap mechanism" https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/289366/public_service_pensions_actuarial_valuations_130314.pdf and section 5 of that document explains the special arrangements that will apply in the case of the funded schemes for local government workers both in England and Wales and in Scotland.

Statutory employer cost cap mechanism

An employer cost cap will be put in place for the local government schemes in the same way as in the unfunded schemes. This will be based on a valuation of a model fund, which measures the costs of the benefits being accrued in the scheme at national level.

The employer cost cap itself, together with a process to be followed if this moves beyond a two percentage point margin ("ceiling and floor"), will be included in scheme regulations.

The employer cost cap for the LGPS in England and Wales will be set with reference to the 2013 model fund valuation, which will be based on data from the 2013 fund valuations. The employer cost cap for the LGPS in Scotland will be set using data from the 2014 fund valuations.

Additional control arrangements in England and Wales

Alongside the statutory cost cap mechanism, the "Scheme Advisory Board" for England and Wales is to run an additional cost control process with the aim of providing greater control over employer contribution rates.

The additional mechanism will operate to control the total contribution (employers and employees) between valuations. It monitors any increases or decreases in the total cost of future service plus any changes in the cost of existing service for active members.

Should the total cost move either way, recommendations will be made to the Secretary of State to change the scheme in order to bring the total cost back to the target. It will operate on a 'may, should, must' basis for changes up to 1%, between 1% and 1.9% and from 2% respectively.

The Scottish Government does not plan to establish any additional cost control arrangements beyond the statutory mechanism.

Ceiling and floor

If a future valuation (three-yearly cycles for the LGPS but four-yearly for others) shows that the costs of the scheme have risen more than 2 percentage points above the cap, or have fallen more than 2 percentage points below the cap, action will be taken to return costs to the level of the cap. Hence the term "ceiling and floor" (or "cap and collar" as some have been heard to describe it).

Returning the employer cost to a target rate may be achieved via adjustments to member benefits accruing in respect of future service, or adjustments to member contributions. There will be a procedure to allow stakeholders to reach agreement on the adjustments required before any change is made. A default adjustment, that will be made if agreement cannot be reached, will be set out in scheme regulations.

An adjustment to member benefits could be any one of, or a combination of, a number of changes to the benefit structure of the LGPS. For example:

- a change in the accrual rate going forward,
- changes to early/late retirement factors,
- changes to the rules for ill health or
- changes to survivor benefit rates.

An adjustment to employee contribution rates could be an increase in percentages, a change to the pay rates used to assess those percentages, or a combination of the two.

Cost cap doesn't control every cost!

It is important to understand that not all Scheme costs will be included in the cost control mechanism.

“Member driven” costs will be included whereas “technical or financially driven” costs won't be. Member costs include improvements in life expectancy and actual pay growth relative to assumed pay growth. Financial costs include the impact on deficits of investment returns (actual experience relative to assumed investment growth) and changes in financial assumptions or actuarial methodology.

The cost cap will also only control past and future service costs for employers in respect of:

- Active members (including pre-1 April 2015 membership);
- Deferred and pensioner members of LGPS2015 (including pre-1 April 2015 membership);
- Active members with transitional protection from the existing Scheme.

This means that the cost of deferred and pensioner members without any **post-1** April 2015 membership is excluded from the cost control mechanism.

All of the above means that the rates set by cost management are only one of the elements which make up the locally set employer rate and the locally collected employer yield. For example:

- Although the employer yield for LGPS2015 from employee contributions is set at 6.3% in Scotland as a whole, local factors may result in actual yields for employers being more or less than that figure;
- The national employer future service rate is based on average member profiles and national assumptions. Individual employers will have different profiles and local assumptions which will probably result in actual rates being higher or lower;
- Past service deficits are outside of cost management as is the impact of investment returns on them. Employers will therefore still have to add their deficit contribution rate onto their future service rate to reach the total payable.

5 WAYS TO COMMUNICATE LGPS2015 TO SCHEME MEMBERS

On-line resources for scheme members

For Scheme members a dedicated website was launched in the summer to act as a central point in Scotland for information on Scheme changes from April 2015. The address is: <http://www.scotlgps2015.org/>

The information which populates the website is regularly updated. In addition to these regular updates, action will be taken by the site administrators to ensure the website reflects the position of the regulations and relevant guidance.

LGPS2015 video

A video on the changes being introduced from April 2015 as well as information on the protections in place for existing members of the scheme is being developed and will be available on the website in Autumn 2014.

Benefits modeller

A visually engaging cost benefit modeller to engage the Scheme member and show how pension accounts work will be made available on the scheme member's website at <http://www.scotlgps2015.org/> in late September. The purpose of the modeller is to assist Scheme members in their understanding of the new Scheme and it provides the user with:

- Annual Pension amount;
- Total Pension amount (based on number of years in LGPS 2015)
 - Visually demonstrating how a pension account works
 - CPI – showing how pension is revalued;
- Link to information regarding State Pension Age / Normal Pension Age;
- 50/50 section – option to see the reduction in pension benefits;
- An idea of the price of a pint of milk at retirement age compared to the present day!

Online resources for Employers

Our website www.lgpsregs.org contains technical and legal information about the LGPS 2015 for employers and administrators. At the moment information is available for Scotland at <http://www.lgpsregs.org/index.php/scotland>. This is the home of information in the short-term whilst the website is fully updated to contain LGPS 2015 information. Currently the site holds:

- Links to Scheme Regulations - LGPS (Scotland) Regulations 2014 and LGPS (Transitional Provisions and Savings)(Scotland) Regulations 2014
- Payroll Guide to the 2015 Scheme

The HR Guide to the 2015 Scheme is expected by the end of 2014 on this section of the site. In due course www.lgpsregs.org will be the home for all employer and fund practitioner information which will include:

The Regulations

- Drafts and Consultations;
- Statutory Instruments;
- LGPS 2015 Timeline Regulations;
- LGPS 2015 Timeline Transitional Regulations.

Guidance

- Scottish Ministers Guidance;
- SPPA Guidance.

Guides and Publications

- HR Guide to the 2015 Scheme;
- Payroll Guide to the 2015 Scheme;
- HR and Payroll Frequently Asked Questions;
- Administration Guides to the 2015 Scheme.

A standard powerpoint presentation on LGPS2015 for administering authorities to use (and employers too) for Scheme members will be available soon from the publications and FAQ section of <http://www.scotlgps2015.org/>.

Member briefing leaflets

A short three-sided newsletter to cover the main changes in brief was issued in January 2014. This will be supplemented by a comprehensive set of member briefings on LGPS2015 to be made available shortly on the publications and FAQ section of <http://www.scotlgps2015.org/>.

The member briefings are being drafted by the Communications sub-group* in Scotland in conjunction with the LGPC and cover the following areas:

- When can I take my pension?
 - More detailed leaflet to cover provisions of LGPS2015;
- How is my pension worked out?
 - How pension accounts work;
- Member contributions and flexibility to pay more or less
 - Pay more AVCs or APCs – Pay less 50/50;
- Paying into the LGPS before 1 April 2015
 - To cover protections for pre April 2015 joiners

In addition a leaflet for Councillor members to inform them of how the scheme changes impact them from April 2015 will be available from the publications and FAQ section of <http://www.scotlgps2015.org/> in late September.

* *A communications sub-group has been established to assess the LGPS 2015 communication needs of Scottish Local Authority Pension Funds and to provide them with a common source of reliable and relevant material. The communications sub-group reports jointly to the SLOGPAG and to the SPLG. It consists of communications specialists from the Strathclyde, Lothian and North East of Scotland Pension Funds, as well as representatives from SLOGPAG, SPLG and SPPA. Further technical advice is available from a specialist officer of the LGA.*

6 GOVERNANCE ARRANGEMENTS

The national Scheme Advisory Board and local Boards

The Public Service Pensions Act 2013 sets out four distinct roles to be performed within each scheme, these are:

- **The Responsible Authority** (*Clause 2*)
- **The Scheme Manager** (*Clause 4*)
- **The Pension Board** (*Clauses 5 and 6*)
- **The national Scheme Advisory Board** (*Clause 7*)

Under the Act, the **Responsible Authority** is the person who makes regulations for the Scheme, in the case of the LGPS in Scotland this is Scottish Ministers.

The **Scheme Manager** is ‘to be the person responsible for managing or administering’ the Scheme and any other statutory scheme connected with it. The Act allows for this to be the Responsible Authority (as it will be for the unfunded schemes) but it has been confirmed that for the LGPS the Scheme Manager is the administering authority as currently defined in LGPS regulations.

The **Pension Board** is a board with responsibility for assisting the Scheme Manager in securing compliance with Scheme regulations, other legislation covering governance and administration and the requirements of the Pensions Regulator.

At individual local government pension fund level, the Scheme Manager manages and administers the Scheme assisted by the Pension Board. Under the Act these are two distinct roles for the administering authority, one of which (the Scheme Manager) is very much a hands on, decision making, management and investment function with the added task of ensuring there are no conflicts of interest for any Pension Board members. The other (the Pension Board) would appear to be much more of a compliance and scrutiny role with a responsibility to ensure that the former is complying with its statutory responsibilities.

The national **Scheme Advisory Board** has a responsibility for providing advice to the Responsible Authority and the Pension Boards. At national (Scotland) level, the Responsible Authority is responsible for policy and for making regulations. The Scheme Advisory Board will have a clear remit to advise the Responsible Authority on regulatory changes it considers appropriate.

SLOGPAG

The Scottish Local Government Pensions Advisory Group (SLOGPAG) is a partnership between the Convention of Scottish Local Authorities (COSLA), the trade unions for local government in Scotland, and the Scottish Government and was re-convened in October 2012. SLOGPAG will discharge its duties (as defined in the 'Role of SLOGPAG' document agreed by SLOGPAG members in December 2012) and will then cease to operate.

In their Heads of Agreement for the new LGPS in Scotland, agreed on 12 December 2013, Scheme Governance was covered at Annex B. In that annex it was stated that SLOGPAG will review the governance arrangements within its agreed remit of developing a new Scottish LGPS. Topics for consideration were very wide ranging and included the membership and constitution of the Scheme Advisory Board.

It is anticipated that the Scheme Advisory Board will be bilateral with an equal number of employer and employee representatives. It would have an independent chair and the size of the Board will be around 15 people. In addition, advisors and observers will also attend the Board but will not have membership status.

SLOGPAG states that although the Scheme Advisory Board will be established from 1 April 2015, the establishment of a Shadow Scheme Advisory Board will be kept under review, but such a Shadow Scheme Advisory Board is anticipated to be beneficial from Autumn 2014 onwards.

Purely out of interest, the English and Welsh experience

In order to assist the process of setting out the remit and membership of the Scheme Advisory Board for England and Wales in regulation, a Shadow Board was set up in order to put a structure to the test.

The purpose of the Shadow Board is to be both reactive and proactive. It seeks to encourage best practice, increase transparency and coordinate technical and standards issues. It considers items passed to it from the Department for Communities and Local Government (DCLG), its own sub-committees and other stakeholders as well as items formulated within the Shadow Board itself. Recommendations may be passed to DCLG or other bodies and it has a liaison role with the Pensions Regulator. In addition, guidance and standards may be formulated for local Scheme Managers and Pension Boards.

The sub-committees specialise in (1) Governance and Standards; (2) Investment and Engagement; (3) Administration and Communications; (4) Cost Management and Contributions; and (5) Value for Money and Collaboration. For detailed information on the structure of, and the work carried out to date by, the Shadow Board please look at www.lgpsboard.org.

The Pensions Regulator

The role of the Pensions Regulator (TPR) is to oversee workplace pension schemes. This includes:

- protecting the interests of scheme members;
- promoting good administration; and
- reducing the risk of claims on the Pension Protection Fund (PPF).

TPR has very far-reaching powers not applicable in the LGPS e.g. the Pension Protection Fund bullet point above does not apply to public sector schemes, the Regulator may remove trustees it does not consider fit and proper and the LGPS does not actually have trustees as such.

TPR's existing powers, in the context of the LGPS, include:

- issuing improvement notices, which require action to be taken within a certain time;
- the power to recover unpaid contributions;
- imposing fines; and
- taking cases to the criminal courts.

These sanctions may be levied on administering authorities or employers, depending on the nature of the "offence" and TPR can also take action if it believes that an employer is deliberately trying to avoid its pension obligations, including those under auto-enrolment.

To visit TPR's website, go to www.thepensionsregulator.gov.uk

A new role with public service pension schemes

While the main purpose of the Public Service Pensions Act 2013 is to reform public service pension benefits, it also provides for new governance arrangements and explicit regulatory oversight of the governance and administration – but not the funding – of all public service pension schemes by The Pensions Regulator.

TPR sees its role as largely focused on educating and enabling – making clear what standards are required, providing material to assist, monitoring the performance of schemes in relation to governance and administration matters and publishing the results.

Having said that, if a significant breach of pension legislation is found, then TPR is adamant that appropriate action would be taken with the regulatory powers available.

In December 2013, TPR published a draft code of practice entitled “Governance and administration of public service pension schemes”. Covering the whole of the public sector schemes it covers:

Governing your scheme

- Knowledge and understanding required by pension board members
- Conflicts of interest
- Information to be published about schemes

Managing risks

- Internal controls

Administration

- Scheme record-keeping
- Maintaining contributions
- Information to be provided to members

Resolving issues

- Internal dispute resolution
- Reporting breaches of the law

At the same time TPR issued another document entitled “Draft regulatory strategy - Ensuring high standards of governance and administration in public service pension schemes”. An interim report of the consultation on these two draft documents was then issued in May 2014, available on-line at: http://www.thepensionsregulator.gov.uk/docs/regulating_public_service_pension_schemes_interim_report.pdf

In that report, TPR’s outline of the next steps included the words “Our aim is to achieve a consolidated public service code for the United Kingdom and be able to lay this in the respective legislatures in autumn of this year”.