



## COVID-19 FAQs for LGPS administrators

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### > Governance and resilience

What activities should administering authorities and employers focus on? —

**TPR's COVID-19 guidance for trustees and public service schemes**

recommends that administrators focus their activities on making sure they deliver critical processes. For the LGPS, we recommend that administering authorities prioritise:

- paying existing pensioners
- processing new pensions benefit cases
- dealing with bereavement cases

Other areas that should continue to receive attention are ensuring receipt of employee contributions and the provision of member information to reduce the risk of scams and support effective decision making. TPR recognises that during this time some administrative breaches of the law may occur and therefore will maintain a proportionate and fair approach to any action they may take.

Are LGPS administration staff key workers for COVID-19? —

The **Government's advice on maintaining educational provision** details which sectors are critical to the COVID-19 response. The guidance confirms that for local government this includes those delivering essential public services, such as the payment of benefits.

In our view, this means that staff working on delivering the critical processes identified in **TPR's COVID-19 guidance for trustees and public service schemes** are key workers.

Should an administering authority allow electronic signatures and documents? —

**TPR's COVID-19 guidance for trustees and public service schemes** states that pension schemes ‘should also allow electronic signatures and documents and encourage other third-party providers to do the same’. The **legal validity of electronic signatures** has been endorsed in a recent statement from Government.

We recommend that administering authorities speak with their audit department and agree a pragmatic way of working during this period of uncertainty. Although it does not apply to the LGPS, administering authorities may find the **Government advice for employers carrying out right to work checks** useful.

Can LGPS authorities suspend the payment of CETVs? —

On 27 March 2020, TPR published **COVID-19 DB scheme funding and investment guidance for trustees** which includes a reference to suspending CETV payments for up to three months where trustees feel it is in the best interests of scheme members. This guidance does not directly apply to the LGPS. Although, administering authorities may wish to use it when deciding whether to suspend the payment of CETVs in the coming months. Government is considering if similar guidance should also be issued for public service pension schemes, if so, it will be referenced here as soon as it is available.

Should the TPR transfer warning letter be sent to LGPS members requesting CETVs? —

**TPR's guidance on communicating to members during COVID-19** includes a request for trustees to issue a **template letter** to members applying for a CETV quote. However, the letter, as currently drafted, includes references to the Pension Protection Fund (PPF) and in particular its role in paying pensions when employers become insolvent. This information is inappropriate for the LGPS and could confuse or alarm members.

In discussions with MHCLG, SPPA and DfC, we agreed that the bulk of the message in the letter is helpful and have asked TPR to provide a version without the references to the PPF. In the meantime, you may choose not to send the letter, or send it with an explanation that the references to the PPF do not apply.

Will the Pensions Ombudsman's service be affected? —

The Pensions Ombudsman temporarily stopped processing new enquiries or complaints because of COVID-19. The **TPO COVID-19 update** confirms that TPO can process new applications that are submitted by email from 22 April

2020. Their phone lines are open Monday to Friday between 9am and 5pm. TPO staff are unlikely to receive any applications or correspondence sent by post during the lockdown period.

They will, wherever possible, use their discretion to extend the three year time limit for new applicants affected by this period of restricted service.

What approach will TPR take to breaches of law during this period? —

**TPR's update on reporting duties and enforcement activity** confirms that they will adopt a more flexible approach to what they expect to be reported in a number of areas due to the COVID-19 situation, and when enforcement action would be appropriate under the current circumstances. These easements will remain in place until 30 June 2020, but they will review more specific flexibilities or restrictions in the coming weeks - and whether the date should be extended. See the update for more information about the general approach they are taking and specific areas that are not covered by it.

What should administering authorities do if they breach service level agreements within their Pension Administration Strategy? —

The Pension Administration Strategy is a voluntary agreement between the administering authority and the employers. If either party is experiencing difficulties in meeting the agreed targets, they should discuss this with one another.

## > **Payment of benefits**

Can an administering authority pay pension benefits without the latest pay information? —

If an administering authority has difficulties obtaining pay information from employers because of COVID-19, they may wish to consider using earlier pensionable pay information (such as from 31 March 2019) to:

- calculate a member's provisional annual pension (BCE 2) and lump sum (BCE 6). These values could then be revised when the actual pay information is received – the recalculation would result in revised BCEs.
- make a 'payment on account' of a pension commencement lump sum (PCLS) – possibly to the value of a 3/80th lump sum, where one is payable. This would be an early payment of a PCLS, which can be paid up to six months before the BCE date. The payment is not, at this point, considered for the lifetime allowance (LTA). When the administering authority receives the actual pay information, they could calculate and pay the annual pension (BCE 2) and revise the PCLS (BCE6) and at that point consider the member's LTA.

Will employers be able to progress ill health retirement applications in the current climate? —

We contacted the Association of Local Authority Medical Advisers (ALAMA) who confirmed that the instruction below has been posted on their website:

‘During the current COVID-19 crisis, it is important to continue to progress ill health retirement applications. It is also particularly important that assessments remain fair and reasonable, and that should include requesting GP and specialist reports as required. There has never been a requirement for these assessments to be face to face, therefore paperwork reviews, with telephone clarification if needed, is the most appropriate way to progress these.

If it is not possible to get reports, an assessment should be based on whether reports are likely to influence your decision further, and whether you have enough objective evidence to make an opinion. Opinions should always be ‘on balance of probability’. There will be times when you simply don’t have sufficient objective evidence to support ill health retirement, and you have been unable to get clinical reports. You should suggest that the applicant request copies of clinical reports direct from their GP.’

What happens if there is a delay in progressing an ill health retirement application or tier three review? —

Each case will be different and will need to be assessed on its own merits. However, where an employee is reaching the end of their sick pay the employer could put them back on full pay or, if applicable, furlough them. The [LGA workforce update: job retention scheme](#) has more information on this.

In England and Wales, any such delay could affect the date from which a post-2014 deferred pension is paid on ill health grounds, or the date that a Tier three pension is upgraded to Tier two. MHCLG has confirmed that an administering authority will need to make a local decision in this type of case. To help them make their decisions, employers and administering authorities may wish to ask IRMPs to include in their report information about any delays due to COVID-19 that have affected the member’s application.

Are payments under the NHS and Social Care Coronavirus Life Assurance Scheme (England) paid in addition to an LGPS death in service payment? —

Yes, the scheme specifies that payments are separate to and regardless of other registered pension scheme benefits. A [summary note on the scheme](#) is available on the [COVID-19 page of the SAB website](#). Further information is also available from the [life assurance scheme page on the NHSBSA website](#).

Have the Scottish and Welsh Governments introduced Coronavirus Life Assurance schemes? —

The Scottish Government has introduced a special temporary scheme called **[the NHS Scotland Coronavirus Life Assurance Scheme \(Scotland\)](#)**. The Scheme may provide a lump sum and survivor benefits to families of frontline NHS staff who die as a result of COVID-19. The Scheme is designed for those who do not qualify for full death benefits under the NHS pension schemes. On 24 May 2020, it announced **[plans to make a one-off payment of £60,000](#)** where a social care worker dies without death in service cover in their contracted pension scheme. The Scottish Government is working with local Government, social care providers and trade unions on the details.

On 27 April 2020, **[Welsh Ministers published a written statement](#)** confirming that they will establish a similar life assurance scheme to the English NHS and Social Care Coronavirus Life Assurance Scheme. Further details are awaited.

## > Contributions

Can employers delay or pause paying employee contributions? —

No, regulations confirm that employee contributions must be submitted to the administering authority in line with the timescales in the Pensions Act 1995. That is, by either the 22nd (where they are paid electronically) or the 19th of the month following the last day of the month in which the contributions are deducted. If an employer fails to submit employee contributions on time, paragraph 148 of **[TPR Code 14](#)** states that where ‘the scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the regulator in the exercise of any of its functions, they must give notice of the failure to the regulator and the member within a reasonable period after the end of the prescribed period’.

Can an administering authority delay receipt of the valuation rates and adjustment certificate beyond the first anniversary of the valuation date? —

Regulations state that the rates and adjustments certificates must be obtained before the first anniversary of the valuation date unless the Secretary of State/Scottish ministers/Northern Ireland Department for Communities (the Department) agrees to a later date.

Can administering authorities allow employer contribution ‘holidays’? —

Our view is that regulations confirm that an administering authority may determine the intervals for employer contribution payments, as they consider appropriate. There must be at least one payment per year but whatever

intervals are set, the total contributions due for the year, as set out in the rates and adjustments certificate, must be received by year end and each payment must equal the appropriate proportion of the total contributions due for the year as determined by the authority.

Deferrals of contributions are only allowed in the limited circumstances set out above and there is no provision for non payment holidays where contributions are not recovered during the year. If, as a last resort, administering authorities consider deferring the commencement of payments to later in the year it is imperative they consider the risks to the fund. These include but are not limited to the risk of the employer not being able to meet the full amount by year end and the risk to the fund's cash flow requirements. As any approach to contribution deferral should be applied consistently authorities may wish to consider agreeing a policy position. Although not directly applicable to the LGPS, administering authorities should be mindful of [guidance issued by TPR](#) on this matter.

What happens if employer contributions are received late? —

If an employer fails to pay contributions on time, regulations confirm that the administering authority may levy interest of base rate plus one percent from the due date to the payment date daily with three monthly rests. Paragraph 147 of [TPR Code 14](#) also requires that where the 'scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the regulator in the exercise of any of its functions, the scheme manager must give a written report of the matter to the regulator as soon as reasonably practicable'.

If an employer is in severe financial difficulty, can an administering authority force them out of the scheme to avoid further build-up of liability? —

No, except for Northern Ireland, regulations confirm that the only circumstances, outside of the conditions of the admission agreement, in which an employer ceases membership is if there are no active members (an exiting employer) or if the administering authority considers it likely that they will become an exiting employer.

An employer in Northern Ireland may be required to cease active membership to protect the solvency of the fund or prevent liabilities falling on other employers with the agreement of the Department.

Can administering authorities use the 'deferred employer' route or other flexibilities to better manage employers who exit the scheme? —

The deferred employer route is not currently available in the LGPS. However, in England Wales, MHCLG is considering the possibility of bringing

forward these and other proposals for flexibility on exit payments included in the [May 2019 consultation](#).

Current regulations in England Wales provide that an administering authority may recover an exit payment over such period of time they consider reasonable but can only suspend the employer's liability to pay an exit payment where there is an expectation that the employer is likely to have one or more active members contributing to the fund within the period specified in the suspension notice. Any suspension can only be for a maximum of three years and the employer must continue to pay contributions as reasonably required by the authority during that time.

In Scotland current regulations provide that an administering authority can suspend an employer's liability to pay an exit payment indefinitely. However, if a suspension notice is served the regulations provide that the employer must continue to pay contributions as determined by the actuary until the suspension notice is withdrawn.

In Northern Ireland regulations provide for an exit payment to be deferred with the approval of the Department during which time contributions continue to be paid by the employer as determined by the actuary. If there is a material change in circumstances the exit date may be varied with the approval of the

Can an employer defer payment of strain costs? —

Regulations confirm that this is an administering authority discretion which may be limited by the Funding Strategy Statement (FSS). For example, an FSS may state that strain costs must be paid immediately except in exceptional circumstances and only for ill health cases. Administering authorities may wish to review their FSS to provide more flexibility for employers during this crisis.

## > **Emergency Volunteering Leave, Secondment, Re-employment and Reserve Forces Leave**

What employee and employer contributions are payable if a member takes Emergency Volunteering Leave (EVL)? —

Employer pension contributions will be based on assumed pensionable pay (APP). Employee pension contributions will be based on the amount of the employee's actual pay during [emergency volunteering leave](#). All scheme discretions (administering authority and employing authority) should operate in the same way as if the member were receiving normal pay.

An active member is seconded as part of the emergency staffing how does this affect their pension benefits? —

If any LGPS members are seconded on [emergency staffing](#) to the NHS, their pension benefits continue on the same basis as before the secondment.

A deferred or pensioner member is part of the emergency staffing how does this affect their pension benefits? —

Deferred and pensioner LGPS members who return to work in local government or are offered contracts of employment with the NHS (as part of [emergency staffing](#)) will have access to pension provision in the appropriate pension scheme. If they are issued with an NHS voluntary agreement it does not constitute an employment contract and therefore, they will not have access to the NHS pension scheme. Please also see answers to the question covering abatement of pension.

Should an administering authority abate a member's pension if they return to work? —

Although the Government suspension of abatement in the NHS pension scheme did not extend to re-employed members of the LGPS, the Government's policy is that pensioners who return to roles as key workers should not be financially penalised for helping tackle coronavirus (COVID-19). On 19 March the England Wales Scheme Advisory Board (SAB) sent [a letter to the chairs of pension committees](#) to that effect. Administering authorities should adjust and publish their revised abatement policies as a matter of urgency.

Is it compulsory to abate compensatory added years if a member returns to work? —

A Scottish employing authority must abate a member's compensatory added years (CAY) if:

- the person returns to work and is employed by Scottish LGPS employer or a relevant English or Welsh employer (regardless of whether the person re-joins the LGPS), and
- the earnings from their re-employment exceed specified criteria

When the re-employment ends the CAY could be permanently abated depending on the length of re-employment.

Similar rules apply in England and Wales however, we do not envisage these members will be re-employed to assist with the COVID-19 response as it has not been possible to award added years since 2006.

What happens when a member is on reserve forces leave? —

The Ministry of Defence (MOD) expects to mobilise up to 3,000 armed forces reservists to assist in the Government's COVID-19 response. LGPS members on reserve forces leave can choose to remain in the LGPS. If an employee chooses to remain in the LGPS, their contributions will be based on Assumed Pensionable Pay (APP).

The employer must tell the MOD the APP figure, the amount of basic employee and employer contributions that must be paid and details of any additional contributions the member is paying. The MOD will pay the contributions to the administering authority. Any payments made by the employer to a member who is on reserve forces leave are non-pensionable.

## > Furloughed staff

Who are furloughed staff? —

Employees who are being paid under the Government's [Coronavirus Job Retention Scheme](#) are referred to as furloughed staff. More information on this and other employment issues can be found at the LGA's [workforce update - job retention scheme](#) and [COVID-19 employment Law FAQs](#) page.

Is furlough pay pensionable? —

Yes, furlough pay is pensionable pay under the regulations. Employee and employer contributions should be deducted based on the actual pay the furloughed employee receives. Assumed Pensionable Pay does not apply.

Can employers reclaim pension contributions from the coronavirus job retention scheme? —

Employers can only claim pension contributions for furloughed employees up to the minimum required for automatic enrolment, that is 3% of income above the lower limit of qualifying earnings (which is £512 per month until 5th April and will be £520 per month from 6th April 2020 onwards). The cost of employer contributions above the 3% minimum will fall to the employer.

How will furlough pay affect pension build up? —

Members will continue to build up CARE pension based on the actual pay they receive. If the furlough pay is less than their normal pay (because the employer chooses not to top up pay to 100%), the pension they build up will also be less. They can choose to buy additional 'extra' pension to make up for the pension lost during this period. The employer is not obliged to split the cost with the member but can choose to. The employer could choose to award additional pension to the member, based on the pension lost during a period of reduced

pay.

Final salary benefits are usually calculated using the pensionable pay earned in the year before leaving the scheme however, one of the two previous years pay is used, if higher. This should prevent final salary benefits from being detrimentally affected if the member's pay is reduced due to being on furlough.

In our view, if an England Wales member's contract of employment is changed when they are furloughed, they will not have the option to have their final pay calculated as the average of any three consecutive years pay in the last 13 years.

A certificate of protection in Scotland will not apply because the reduction is temporary.

How will being on furlough leave affect a member's death in service benefits? —

Assumed pensionable pay (APP) is used in the calculation of the death grant and any survivor benefits if a member dies in service. APP is usually calculated using the average pensionable pay the member receives in the three months before the pay period in which they die.

If a member receiving reduced furlough pay dies in service, employers should make use of the provision in the regulations that allows them to substitute a higher pay figure to reflect the pensionable pay the member would normally have received.

How will being on furlough leave affect salary sacrifice benefits? —

The [Government's Coronavirus Job Retention Scheme guidance](#) states that all the grant received to cover an employee's subsidised furlough pay must be paid to them in the form of money. No part of the grant should be netted off to pay for the provision of a salary sacrifice scheme. Where the employer provides benefits to furloughed employees through a salary sacrifice scheme, these benefits should be in addition to the wages that must be paid under the terms of the job retention scheme.

When determining the employee contribution rate on 1 April 2020, should furlough pay be used? —

Yes, if furlough pay forms all or part of a member's pensionable pay it should be used to determine the employee contribution rate on 1 April 2020.

Regulations in England Wales and Northern Ireland provide that where there is change to employment, or a material change, during the year, the employer may make a further determination and reallocate a member to a different band.

In Scotland a further determination must be made if there is a permanent material change to the terms and conditions of a member's employment during the year. The employer must notify the member if they reallocate a member to a different band.

Further information is available from the [LGA guide on discretionary policies](#) and SPPA [employer guidance for the assessment of member contribution rates](#).

## > Information for scheme members

What information is available for members who are concerned about their financial situation due to COVID-19? —

Administering authorities should encourage members to look at the [member FAQs](#). This includes questions about reducing/ceasing contributions, pension scams and other guidance on how to deal with the financial effects they may be suffering.

## > Annual Scheme Events

Will there be any relaxation of the deadline for issuing 2019/20 annual benefit statements? —

Regulations confirm that administering authorities must issue annual benefit statements to active, deferred, deferred pensioner and pension credit members by 31 August 2020. We have raised this question with MHCLG (in relation to England and Wales).

Meanwhile, [TPR's update for trustees, employers and administrators](#) confirms that they understand many non-critical services may be affected and this may include delays in producing annual benefit statements. In addition, [TPR's update on reporting duties and enforcement activity](#) confirms that they have decided they can adopt a more flexible approach to what they expect to be reported in a number of areas (including annual benefit statements) due to the COVID-19 situation, and when enforcement action would be appropriate under the current circumstances. These easements will remain in place until 30 June 2020, but they will review more specific flexibilities or restrictions in the coming weeks - and whether the date should be extended.

Will there be any relaxation to the timescales for publishing the 2019/20 pension fund annual report? —

The Accounts and Audit (Coronavirus)(Amendment) Regulations 2020 extend the publication for local authority accounts (England and Wales) to 30 November 2020, with the public inspection period now starting on the first working day of September 2020. However, at present there are no plans for an automatic extension of the publication date for the annual report and accounts.

MHCLG have requested that funds inform the LGA ([query.lgps@local.gov.uk](mailto:query.lgps@local.gov.uk)) of any knock on issues arising from the Accounts and Audit (Coronavirus)(Amendment)Regulations 2020 to enable them to keep the matter under consideration. The LGPS regulations require that the annual report and accounts are published by 1 December 2020.

The view of the Scottish Government is that the provisions made in the [Coronavirus \(Scotland\) Act 2020](#) are sufficient to allow each authority to determine its own timetable for Annual Accounts . Scottish Ministers consider that it seems reasonable that alocal authority publishes its Annual Accounts no later than 30 November 2020 .

## > Pensions Tax

Will there be any relaxation of the deadline for sending an AFT return to HMRC? —

HMRC acknowledge in [Pension Schemes Newsletter 118](#) that pension companies and scheme administrators may face challenges submitting Accounting For Tax (AFT) returns and making payments by the deadline of 15 May 2020, if resources are affected by COVID-19. If this is the case and an administering authority receives penalties or interest on the return for the quarter ending 31 March 2020, they can email details to HMRC at [pensions.businessdelivery@hmrc.gov.uk](mailto:pensions.businessdelivery@hmrc.gov.uk) and put ‘AFT return – Newsletter 118’ in the subject line of the email. HMRC will cancel any penalties and interest in these circumstances.

Will there be any relaxation of the deadline for filing an event report? —

HMRC acknowledge in [Pension Schemes Newsletter 118](#) that scheme administrators may face challenges submitting APSS262s (transfers to QROPS) within the 30 day deadline if resources are affected by COVID-19. So if, over the next three months, an administering authority receives a penalty relating to the late reporting of an overseas transfer, they can email details to HMRC at [pensions.businessdelivery@hmrc.gov.uk](mailto:pensions.businessdelivery@hmrc.gov.uk) and put ‘APSS262 – Newsletter 118’ in the subject line of the email. HMRC will cancel any penalties in these circumstances.