

Scheme Employer

Welcome to the Winter 2009/10 edition of Scheme Employer, the newsletter for Employing bodies which participate in the Essex Pension Fund.

Important Notice

AGE 50 to 55 RETIREMENTS

The attention of all employers is drawn to a potentially serious issue with the retirement processes for members retiring between the ages of 50 and 55 prior to the scheme earliest retirement age for all active members rising to 55 from 1st April 2010.

For certain members retiring before age 55, if Pensions Services do not receive leaving paperwork from the employer (and certain paperwork from the member) before 6th April 2010 then the pension payments will be viewed by HM Revenue & Customs (HMRC) as unauthorised payments which will trigger up to three separate tax charges, most significantly a tax charge of 40% of the value of the unauthorised payment, payable by the member.

The technical HMRC details of exactly who could be effected by this are complex and we would, therefore, urge you to ensure that for ANY member retiring before age 55 (other than ill-health retirement) :-

- You send form PN1A giving Pensions Services at least 4 weeks advance notify notification of the retirement
- You send leaving forms PN1, PN68 and, if applicable, PN142 to reach Pensions Services by 5th April 2010 at the very latest

Failure to do this could result in the pension payments being treated as unauthorised payments by HMRC which will trigger up to three tax charges, most significantly a tax charge of 40% of the value of the unauthorised payment, payable by the member

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AGE 50 to 55 RETIREMENTS

Further information about who may, or may not be, affected :-

This issue applies in the case of all such employees who were **not** members at 5th April 2006 and are retiring immediately before or shortly before the last date when the age 50 to 55 protection is removed. That is -

- In the case of flexible retirement where a member makes a request before 31st March 2010
- In the case of efficiency and redundancy retirements where the date of dismissal is before 31st March 2010
- In the case of a member election for early payment of pension, with employer consent, where the member makes an election before 1st April 2010

It is imperative that in order to avoid incurring an unauthorised payment tax charge all the necessary forms, paperwork, and elections must have been completed and provided to the administering authority by the employer and the member before 6 April 2010. Unauthorised payments trigger up to three tax charges, most significantly a tax charge of 40% of the value of the unauthorised payment, payable by the member.

This issue may represent an administrative challenge and Pensions Services will support the process by acting with the utmost expediency once an employer notification of retirement has been received. However, we will be reliant on employers providing all the required information sufficiently far in advance for all of our communications with the member to be completed within the required deadline.

Nb. This issue does not apply to employees who were members of the LGPS at 5th April 2006

EARLIEST RETIREMENT AGE [other than Ill-health] for DEFERRED MEMBERS

There are statutory requirements for employers to have policies in respect of certain discretionary powers. In connection with the employer discretion to allow early release of benefits for a member from age 55 (or age 50 for protected members), the protections, as they apply to deferred members, have been reviewed by Local Government Pensions Committee and a summary of their conclusions is as follows :-

Leavers before 6th April 2006

These members retain age 50 earliest retirement age forever.

Leavers after 6th April 2006 and before 1st April 2008

Members who were active members of the scheme on 5th April 2006 can retain an earliest

EARLIEST RETIREMENT AGE [other than ill-health] for DEFERRED MEMBERS (continued)

retirement of age 50 forever.

Members who were not active members of the scheme on 5th April 2006 can retain age 50 earliest retirement age until, at the latest, 5th April 2010, whereupon the earliest retirement age rises to 55.

Leavers after 1st April 2008

Members who were active members of the scheme on 5th April 2006 can retain age 50 earliest retirement age until, at the latest, 5th April 2010, whereupon the earliest retirement age rises to 55.

Members who were active members at 31st March 2008 who were not active members of the scheme on 5th April 2006 can retain age 50 ERD until, at the latest, 5th April 2010, whereupon the earliest retirement age rises to 55.

Members who were not active members at 31st March 2008 have an earliest retirement age of 55.

2010 VALUATION

You will recall that in the last edition I informed you that employers will have to submit their annual returns by 16th April 2010 because of the cost-sharing mechanism being introduced into the scheme and earlier deadlines being imposed by CLG, GAD and the fund's actuary.

2010 is also the year of the next triennial valuation of the Essex Pension Fund whereby the fund's actuary will determine employer contribution rates for the following 3 year period. **It is, therefore, more important than ever for employers to ensure that they submit their annual returns promptly.**

LGPC BULLETINS & CIRCULARS

Bulletins

LGPC issue monthly bulletins which cover a variety of issues, some of which will be of interest to employers.

Circulars

Circular no. 231 Practitioner & Employers Training Events

Circular no. 233 Workplace Pensions Reforms—this circular details the current position with regards to the Government's proposals for auto enrolment of all eligible job holders into a qualifying workplace pension

These bulletins and circulars can be found on the LGE website at www.lge.gov.uk

REGULATIONS

RECENT OR CURRENT DRAFTS/CONSULTATIONS

LGE/LGPC responds to consultation on Personal Accounts

As has been well publicised, people are living longer. They therefore need to plan and save for their later years. To encourage more people to do so the Government intends to introduce workplace pensions reforms from 2012. The Pensions Act 2008 sets out the framework for these reforms, with the detail being left for subsequent regulations

In March 2009 the Government consulted on the first set of draft regulations – The Pensions (Automatic Enrolment) Regulations 2009 and The Pensions Regulator (Delegation of Powers) Regulations 2009. On 24 September 2009 the Government published its response to comments made on those draft regulations and issued a further consultation document – Workplace Pensions Reform – Completing the Picture - together with six sets of draft regulations and various guidance notes (215 pages in total)

The LGPC has issued a response to this consultation and a Circular (No. 233) which can both be viewed on the LGE website at www.lge.gov.uk

Pre-budget report

The pre-budget report was delivered by the Chancellor of the Exchequer on 9 December 2009 and provides an update of the state of the economy and public finances, while setting out the direction of Government policy in the run-up to the spring Budget. The LGE has prepared a note on items in the pre-budget report that may be of interest to local authority Pay and HR staff. The note can be viewed by accessing "Latest News" on the LGE website.

Tax Changes for High Earners

You will recall that in Issue 5 I mentioned the 2009 Budget and pensions implications for those earning over £100,000 per annum. The subsequent pre-Budget report added some, but not all, of the missing detail as well as introducing some new measures. The Essex Pension Fund has commissioned Hymans Robertson to produce a small number of leaflets for staff likely to be affected by the changes. These leaflets have been distributed only to fund employers with LGPS contributors likely to be affected by the changes. The fund has also commissioned Hymans Robertson to provide a briefing on 22nd February in Chelmsford for staff immediately affected by the changes, i.e. staff earning (or likely to earn) over £100,000 in 2010/11. Fund employers with staff likely to be affected have already been contacted.

EMPLOYEE CONTRIBUTION BANDINGS

Communities and Local Government (CLG) has confirmed that there will be no change to the employee contribution bandings in April 2010.

Therefore, the bandings remain as advised in CLG's letter of 13 January 2009 which was sent to scheme employers on 29 January 2009.

A table showing the current bandings can be viewed on the Essex Pension Fund Employers website at www.lge.gov.uk

SCHEME CHANGES DELAYED

You may recall from the previous edition that we were expecting the Government to begin a consultation on further changes to the LGPS following a speech by the Minister for Local Government to the National Association of Pension Funds (NAPF) local authority conference on 19th May 2009.

The expected consultation on further changes to the LGPS has not materialised and it is understood that the Government may have decided to delay any formal review until after the general election.

It does seem inevitable that there will be another full review of the LGPS because of the current financial and political climate, however we do not know when any consultation will begin. Terry Crossley from CLG did say at the LGPS Pension Managers Conference on 24th November 2009 that we could “expect decisions soon by Ministers on their next steps”, however CLG have promised things “soon” in the past which have not materialised for some considerable time, if at all.

ABATEMENT OF PENSIONS CEASES

With effect from 1 OCTOBER 2009

The Essex Pension Fund Board met on 30 September 2009 and the board resolved that:-

- Abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009.
- Any pensions currently being abated because of re-employment be reinstated with effect from 1 October 2009.

Please note that this change of policy only relates to Local Government Pension Scheme benefits. The change does not affect benefits being paid in respect of Compensatory Added Years (CAYs) which were awarded under different legislation and will continue to be subject to

EMPLOYER DISCRETIONS

LGPS Discretions on which Employers must publish a Policy Statement

Each employer must prepare a written statement of its policy in relation to the exercise of its functions under the following Benefit Regulations:

- regulation 12 (power of employing authority to increase total membership of active members),
- regulation 13 (power of employing authority to award additional pension),
- regulation 18 (flexible retirement),

EMPLOYER DISCRETIONS (continued)

The statement should have been published within 3 months after 1 April 2008 (or, if later, 3 months after the date on which you became a Scheme Employer in the Essex Pension Fund) and copied to the Essex Pension Fund. We are aware that this may not have happened for all fund employers and should point out that it is a statutory requirement to do so. A copy of Essex County Council's statement has recently been circulated to fund employers to assist those employers who have not yet published their own policy statement.

An employer must:

- keep its statement under review
- make appropriate revisions following a change in its policy

If the statement is revised it must be published within one month of the date it is revised and a copy sent to the Essex Pension Fund within that month.

In preparing, or reviewing and making revisions to, its statement, an employer must have regard to the extent to which the exercise of any of the functions in accordance with its policy could lead to a serious loss of confidence in the public service.

ABOUT US

Essex County Council is the Administering Authority for the Local Government Pension Scheme (LGPS) in Essex.

There are more than 400 scheme employers participating in the Essex County Council Pension Fund and *Pensions Services* administer the LGPS for in excess of 100,000 scheme members including active, deferred and pensioner members.

Investments & Insurance deal with the investment of the Pension Fund itself and with the collection of contributions from employers. If you have any questions on these subjects they can be contacted on 01245 431301 (Investments) or 01245 431733 (Contributions)

HOW TO CONTACT US



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www.essex.gov.uk/pensions

USEFUL LINKS

Local Government Pensions Committee (LGPC) : www.lge.gov.uk

National LGPS Members website : www.lgps.org.uk

Communities & Local Government (CLG) *Pensions* : www.xoq83.dial.pipex.com

Main : www.communities.gov.uk

Department for Work & Pensions (DWP) : www.dwp.gov.uk