

On 21 December 2012, the Department for Communities and Local Government published draft membership, contributions and benefits regulations for the new Local Government Pension Scheme, which are due to come into force in April 2014 (see our [Public Sector Pension Reform - New Consultation](#) update). In response, the Government Actuary's Department (GAD) has announced an immediate change to the provision of broad comparability assessments for the LGPS in England and Wales. This will affect contractors and public sector bodies entering into outsourcing arrangements involving the transfer of former public sector employees into a private sector broadly comparable pension plan. Those anticipating a transfer within the next three months may need to liaise with their GAD contact immediately to ensure that appropriate certification will be available.

A Brief Recap

When employees are transferred out of the public sector as part of an outsourcing, under the Government's Fair Deal policy their new employer must provide them with broadly comparable pension benefits. For members of the LGPS (and the NHS Pension Scheme) this can be achieved either by the contractor participating in the LGPS (or the NHS Pension Scheme) or by transfer into a private sector pension plan that provides sufficiently generous benefits. Contractors using their own pension plan must obtain a certificate of broad comparability (often referred to as a "passport") from GAD.

Why the Change?

GAD assesses broad comparability against the benefits provided as a right in the LGPS at the time of assessment. This includes future changes in benefits, once those changes are sufficiently "known". When significant benefit changes were made to the LGPS in 2008, GAD took the view that those changes should be taken into account as soon as final regulations were laid before Parliament (i.e., even before they came into force). This was on the grounds that employees transferred out of the public sector after that time would have had an entitlement to the new benefits from April 2008 if they had remained in the LGPS.

Following Lord Hutton's review of public sector pensions, the Government has announced plans to change the benefit structure for all public sector pension arrangements by April 2015, so that future service benefits will accrue on a career average revalued salary (or CARE) basis. The LGPS in England and Wales is to bring these changes in a year earlier, from April 2014. (See our [Progress on Public Sector Pensions Reform](#) update.)

GAD is expecting to follow the same process with the 2014 changes: as soon as the new LGPS regulations for England and Wales are finalised, GAD will take them into account when assessing broad comparability. At present the new LGPS regulations are still subject to consultation and may be amended. However, the Government has committed to having them finalised by April 2013.

What Will Change?

GAD has announced that existing LGPS passports will be withdrawn as soon as the new LGPS regulations are sufficiently "known", for transfers of employment on and after that date. **This means existing LGPS passports are likely to be withdrawn by April 2013 at the latest.**

From now on, GAD will no longer accept applications for LGPS passports unless the contractor can demonstrate a "pressing short term need". Applications that are already underway will continue to be processed unless GAD is asked to stop – although the resulting passports will still be withdrawn by April 2013. Contractors without a valid passport who expect to receive a transfer of employees from the LGPS before April 2013, and who don't want to enter into an admission agreement and participate in the LGPS, will be able to get a broad comparability certificate that is valid for that transfer only.

The changes only affect passports for the LGPS in England and Wales. Although LGPS benefits are expected to change in Scotland and Northern Ireland, this is not anticipated to be from April 2014. Contractors with combined passports can apply for separate Scottish and/or Northern Irish passports that will remain valid after April 2013, until such time as those changes are sufficiently known. Similarly, passports for other public sector plans (such as the NHS Pension Scheme or the Principal Civil Service Pension Scheme) are not affected by this change – but a similar process will undoubtedly get underway for all remaining passports in the run-up to April 2015.



The Future of Fair Deal and “Broad Comparability”

Separately, the Government is also consulting on the future of the Fair Deal policy (see our [Public Sector Pensions – Progress on ‘Fair Deal’](#) update). The Government’s stated intention is to phase out transfers to broadly comparable plans and instead allow all transferring staff to be given continued access to the relevant public sector pension arrangement. It is not yet known how this change will affect former public sector employees who have already joined a broadly comparable pension plan and whose employment is transferred to a new employer on a second or subsequent generation outsourcing.

There are therefore likely to be further significant changes to the passport system and GAD’s associated procedures. We will continue to keep you updated as to additional developments.

Further Information

For further information please contact any of the partners listed or your usual contact in the pensions team.

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