

27 November 2013

Important Announcement (staff transfers)

Broad comparability work against the Local Government Pension Scheme in England and Wales

1. Scope

This announcement relates to broad comparability work carried out by the Government Actuary's Department (GAD), where staff are eligible for membership of the Local Government Pension Scheme in England and Wales (LGPS(E&W)) but are to be offered membership of a broadly comparable scheme, instead of membership of the LGPS(E&W), following a compulsory transfer of employment.

The requirement to offer a broadly comparable scheme ('the broad comparability requirement') may arise as a consequence of the Pensions Directions under the Local Government Act 2003, the Cabinet Office Statement of Practice on Staff Transfers, the Government's Fair Deal policy, a decision of the local authority or contracting authority or some other mechanism.

This announcement therefore affects local authorities/contracting authorities conducting procurements, contractors involved in those procurements and departments and other bodies responsible for machinery of government moves in the above circumstances. It may also be of interest to those advising on these matters.

2. Background

On 4 October 2013, HM Treasury (HMT) published new [guidance](#) setting out a reformed Fair Deal policy. HMT also confirmed that the Department for Communities and Local Government (DCLG) will consider what is needed in respect of directions or other arrangements to achieve the principles of new Fair Deal in local government.

[The Local Government Pension Scheme Regulations 2013](#) (SI 2013/2356) were laid before parliament on 19 September 2013, which introduced a new local government pension scheme for England and Wales from 1 April 2014. Further regulations, The Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2013 (the '2013 Transitional Regulations') are to be introduced to deal with transitional protection and other matters. Together these regulations constitute the 2014 reforms.

3. Effect on GAD's assessment of the broad comparability requirement

DCLG has not yet announced what is needed in respect of directions or other arrangements to achieve the principles of new Fair Deal in local government. Accordingly, for the time being, broad comparability assessments continue to be made in accordance with the requirements of the extant Best Value Authorities Staff Transfers (Pensions Direction) 2007. It should be noted,

however, that the Treasury guidance on new Fair Deal brings certain maintained schools (including Academies) within its scope and will be taken into account for forthcoming staff transfers.¹

Under the [Statement of Practice by the Government Actuary](#), the assessment of broad comparability is made against those benefits provided as a right from the LGPS(E&W). Once the complete new regulations are on the statute book, the broad comparability assessment of the LGPS(E&W) will change from that based on the existing regulations. Existing broad comparability certificates will cease to be valid for transfers of employment on and after that date; and new certificates for such transfers will need to be on the basis of the new regulations.

For this purpose, the benefits provided as of right will be those which take account of the 2014 reforms (i.e. both the 2013 LGPS regulations (SI 2013/2356) and the 2013 Transitional Regulations); and relevant date will be the date on which the 2013 Transitional Regulations are laid before parliament.

3.1 How does this affect applications for GAD certificates of broad comparability, including passport certificates?

From the date on which the 2013 Transitional Regulations are laid before parliament, GAD will accept applications for passport certificates against LGPS(E&W) which take into account the 2014 reforms.

GAD will also accept applications for individual broad comparability certificates, which take into account the 2014 reforms, where these cover specific procurements or machinery of government moves and the transfer of staff is planned to occur on or after the date on which the 2013 Transitional Regulations are laid before parliament.

These passport and individual certificates will not be valid for any staff transfer that occurred before the date on which the 2013 Transitional Regulations are laid before parliament. In any such cases, an application for an individual certificate should be made based on the previous requirements.

In all cases, applications for broad comparability assessments should be accompanied by full details of the pension proposals which are to be tested. There will be a delay before GAD is able to provide broad comparability certificates (including passport certificates) which take into account the 2014 reforms, whilst our systems are updated. GAD will consider requests for back-dated passport certificates, with validity from the date on which the 2013 Transitional Regulations are laid before parliament, in cases where these replace a passport certificate that is withdrawn under this announcement.

3.2 How does this affect existing GAD certificates of broad comparability?

Existing GAD certificates will cease to be valid for a transfer of staff on or after the date on which the 2013 Transitional Regulations are laid before parliament and relevant passport certificate numbers will be removed from the GAD website.

This will include situations where contract terms have been agreed but the transfer of staff is planned (or occurs) after the date on which the 2013 Transitional Regulations are laid before parliament.

¹ See paragraph 1.7 of the new Fair Deal [guidance](#).

3.3 How does this affect applications for GAD certificates which are currently in progress?

These will be reviewed on a case-by-case basis and applicants will be contacted as necessary to clarify their intentions. Where applications are discontinued, applicants will be liable for fees accrued to date.

3.4 How does this affect GAD certificates of broad comparability against the Local Government Pension Scheme in Scotland (LGPS(S)) or against the Local Government Pension Scheme in Northern Ireland (LGPS(NI))?

The new regulations cover LGPS(E&W) only. Although similar changes may be made to the LGPS regulations in Scotland and in Northern Ireland, no regulations to reform those schemes have been made at this time.

Accordingly, GAD certificates which cover just LGPS(S) and/or LGPS(NI) are not affected by this announcement. However, any GAD certificate covering LGPS(S) or LGPS(NI) which also covers LGPS(E&W) is affected by this announcement and will be withdrawn when LGPS(E&W) certificates are withdrawn. Applicants with such GAD certificates may request separate GAD certificates for LGPS(S) or LGPS(NI).

3.5 Will DCLG's review of what is needed in respect of directions or other arrangements to achieve the principles of new Fair Deal in local government affect matters?

It is not possible to say at this stage. An announcement will be issued once DCLG has published details of its review.

3.6 Should local authorities and contracting authorities be suspending or delaying procurements?

Our [previous announcement](#) alerted authorities to the forthcoming changes in certification and suggested that they might wish to take legal advice on the options available. It is expected that authorities will have taken appropriate action to minimise the disruption to procurements. For staff transfers that take place on or after the 2013 Transitional Regulations have been laid before parliament, and before GAD is able to issue replacement or new certificates, authorities should be aware that contractors can request a back-dated certificate which would be valid at the date of the staff transfer.

3.7 What should I do if I have further questions?

Further questions may be raised with your normal GAD contact or you can contact the Staff Transfers team at staff.transfers@gad.gov.uk, telephone 020 7211 2676 or 020 7211 2752. However, please note that there remain uncertainties over a number of matters, including timescales, on which GAD is unable to provide further information.

4. Further information

GAD will publish further information as it becomes available.

Staff Transfers
Government Actuary's Department

