

CASEWORK DE-MINIMUS LIMITS AND GMP

Introduction

1. The Committee will receive an update on the Fund's progress in completing the GMP project and will be requested to endorse the approach to under and over payments which have been identified during the project.
2. The Committee will also be presented with a summary of casework de-minimus limits which are in operation by the Fund, in order to ensure operational efficiency. The Committee are requested to reaffirm these limits and also to consider a new limit for refunds.
3. The practices outlined in this report have already been considered by the Local Pension Board, who recommended that the Committee provide their approval to the recommendations contained within this report.

Guaranteed Minimum Pension (GMP)

4. With the introduction of the Single tier state pension in 2016, the LGPS will no longer be contracted-out of the state second pension. With contracting-out coming to an end, HMRC will no longer track contracted-out rights and have issued closure schedules to pension schemes to enable them to compare the GMP figures held on their systems to that of HMRC. This is known as the Guaranteed Minimum Pension (GMP) reconciliation.
5. The project is in two phases. Phase 1 is the reconciliation of all data held by HMRC to that held by the Fund. Phase 2 will then deal with the rectification i.e. any cases where there is a discrepancy on the GMP.
6. GMP values are held on a member's records (where they have qualifying service). However, the GMP itself does not come into effect until the member reaches state pension age.
7. The Fund has now completed Phase 1 of the project, having reconciled c 126,000 records. This was achieved by working with a company called Intellica, who have provided sophisticated data analytics tools in order to reconcile large numbers of members to the data held by HMRC and also to group members into categories of queries where the GMPs do not match.
8. The Fund was then able to sample each category of case where the GMPs did not match and, for the majority, provide additional evidence to HMRC that a liability to the Fund no longer existed. For instance if the member had transferred their service to another LGPS Fund when they changed jobs.
9. There are also a number of cases where the Fund disagrees with HMRC's assessment of the GMP liability and so these cases remain as 'stalemate'. This is where the project has been unable to agree the service periods held by HMRC with those of the fund. Based on the investigations carried out by the fund, we are confident that the service data held on UPM for these members is correct and therefore will not accept the HMRC service nor the associated GMP value.

10. Now that Phase 1 of the project is complete the Fund now needs to complete Phase 2 and rectify any records where the GMP values do not match between the data held by HMRC and the Fund.
11. Some work has already taken place on rectification in the past two years on cases where the mismatch between the GMP was above £100 per week. Therefore, all cases where there was such a discrepancy have already been resolved and the members informed.
12. There were 19 cases where the GMP variance was above £100 per week and the combined overpayment amounted to £38k, with some of these overpayments having been in payment since 2002.
13. These 19 cases all related to overpayments which varied between £140 and £7,100 per member. The ages of the members who were subject to these overpayments ranged between 68 and 81.
14. The Fund dealt with the overpayments by following Local Government Association (LGA) guidance which was issued in 2017, which in turn was based on guidance from HM Treasury. The guidance suggested that the approach to overpayments should be that you do not recover the overpayments from individual members where this is a relatively small amount.
15. Whilst 'a relatively small amount' is not clearly defined the guidance does include an example (*Capita ATL Pension Trustees Ltd v Gellately* [2011]) of a case where the High Court ruled that the recovery of overpayments as a result of GMP errors from 3 widower members totalling £10,200 (or an average of £3.4k each) should not be recovered.
16. The High Court found that "In view of the small scale of the problem, the distress that any attempt to recover the sums would inevitably cause, and the likelihood that the exercise would anyway not be cost-effective" it was not necessary for the Trustees to take any steps to recoup the overpayments."
17. Out of the 19 members who were subject to an overpayment, 16 are below £3,400. The other three overpayments were for £7,140, £4,740 and £3,970 for members who were 81, 81 and 75 years of age respectively. All three members had been in receipt of the wrong GMP since 2002. In light of the reason for the error and the complexity of the GMP process, the members would not have been aware of its impact. Given the distress it would cause to the members the Fund chose not to attempt to recover these overpayments.
18. Although the Fund has not recovered the overpayments these members have received a reduction in their ongoing pension payment, which range between a reduction of £50 and £930 per annum for the 19 members.
19. In addition to the cases outlined above, the Fund also has 11,887 additional cases with smaller GMP variances to investigate. These cases have been assessed and broken down into categories based on the value of the weekly GMP variances, as summarised in the table below.

GMP Variance per week	No. of cases	Comment
Less than £2	8,904	No further investigation required
Between £2 and £5	534	To be investigated
Greater than £5	2,172	To be investigated
Greater than £50	277	Of the 277 cases, 7 have been found to have an overpayment and 1 and underpayment. Work in ongoing to calculate the value of the under/over payments.
	11,887	

20. The Fund has investigated the 277 cases where the 'per week' GMP variance was above £50. Of these, only 7 have been identified as having been overpaid and one underpaid. The extent of the under/overpayments are being calculated so that the affected members can be informed and their pension amended accordingly.
21. The Fund will commence work on the variances above £5 and between £2 to £5, in the coming weeks.
22. Of the 11,887 cases, there were 8,904 where the GMP difference is below the tolerance threshold suggested by The Pensions Regulator of less than £2 a week and as such these will not require any investigation.
23. As outlined in Appendix A, HM Treasury have suggested some recommendations for how Funds should deal with any under or over payments.
24. The table below outlines the approach the Fund follows when dealing with under and over payments identified as part of the GMP project.

Rectification Type	Fund's Proposed Approach
Underpayment	The Fund will rectify all instances of underpaid pensions identified as part of the GMP reconciliation exercise. The underpayment shall be backdated to the date that the GMP payment commenced
Overpayment	The Fund will not seek to recover any overpayments which were made to the member in the past and the future pension will be amended to the correct figure as soon as possible. This approach that is taken by the majority of LGPS Funds.

25. It is through no fault of their own that the members pensions have been paid at the incorrect value and so the approach above seems the fairest approach to rectify the GMP discrepancies.

26. The approach outlined above was reviewed by the Local Pension Board at its meeting of 16 July. The Board recommended that the Committee provide its approval for the approach.
27. The Committee, therefore, are requested to approve the approach outlined below for dealing with both under and over payments associated with the GMP exercise.

Casework De-Minimus Limits

28. Attached to this report in Appendix B is a table of casework de minimum limits that are in operation by the Fund. These low limits assist the Fund with the smooth operation of the administration casework and help to manage the administration caseload.
29. The operational limits are necessary to assist the Fund with working through the high volume of casework and in managing the numerous cases where members do not respond to requests from the Fund due to the small sums of money involved.
30. The majority of the limits have been in place for a number of years. However, the Fund would like to increase the refund limit from £10 to £25 and so have taken the opportunity for the Committee to review the entirety of the operational limits in place.
31. In order to make a payment to members the Fund has to calculate the balance due to the member and then contact them in order to obtain their decision on whether they would, for instance, like a refund of their benefits and if so provide the Fund with their bank details. More often than not members do not respond to such letters as the value of the payment is small and so the Fund is left with a raft of casework that it cannot bring to a conclusion.
32. This causes additional problems in particular with refunds as current legislation dictates that where a refund is due to a member who left active employment on or after 1 April 2014 the refund must be made within five years (this rule does not apply to members who left employment prior to 1 April 2014). It is likely that this regulation will be changed in the future, however, it remains in place at present and if a refund is made after 5 years it would be treated as an unauthorised payment. This would mean that the refund would be subject to a 40% tax charge and the fund would need to report the breach as part of its normal reporting procedures.
33. The refund limit relates to members who are due a refund and have already been contacted by the Fund but have failed to respond and/or the Fund has had the letter returned and so does not hold a current address for the member (known as 'gone away' members).
34. In order for the Fund to chase the member to make the refund, the Fund would need to employ the services of a tracing company. It also results in further work and costs for the Fund in chasing the member and reissuing a further letter.
35. It is therefore requested that a limit of £25 be agreed whereby the Fund will not chase members about their refund. All members who are due a refund will receive one initial letter informing them of the refund due.
36. For cases where the refund is below £25 and the member has not contacted the Fund the refund will be allocated as 'no liability' within the Fund.
37. Where a member contacts the Fund to request the refund this would be honoured plus the monies will remain held against the member's record so if they commence a new post with

an employer in the pension fund then the refund amount can be joined to the new post. This would be beneficial to the member as it would be worth more as a pension than a refund of cash.

38. As well as the operational limits where the Fund avoids making low value payments to members, it also follows recovery limits such as the Fund will not seek to recover overpayments from members who pass away during the month or where the overpayment is less than £250. This policy was approved by the Committee some years ago.
39. As Members will note, the majority of the limits are for low values and the Fund may consider increasing these limits, like it has for refunds, in future and the Committee will be invited to endorse any future changes.
40. The Committee are requested to endorse the casework de-minimum limits, including the new £25 refund limit, as recommended by the Local Pension Board.

Recommendation

The Committee are requested to:

- **Endorse the approach to under and over payments of GMPs.**
- **Endorse the approach to casework de-minimus limits and the new refund limit of £25.**

GMP Project - Background

1. Prior to April 2016, contributing members of the Local Government Pension Scheme (LGPS) paid lower rate National Insurance contributions as they were “contracted out” of the Additional State Pension which has previously been known as S2P, the state second pension or the State Earnings-Related Pension (SERPS). LGPS employers also paid reduced rate National Insurance contributions in respect of their employees who were in the LGPS. Contracting out ended on 5th April 2016 as part of the Government’s introduction of a single-tier basic state pension.
2. Between 1978 and 1997 contracting out of the Additional State Pension was undertaken on a Guaranteed Minimum Pension (GMP) basis. This required contracted out pension schemes to offer pension benefits for the period of contracting out that were worth at least as much as the benefits the additional state pension would have provided. Contracted out pension schemes had to record the relevant contracted out earnings for that period and supply HMRC with details of these. HMRC retained a record of contracted out earnings and GMP entitlement for each individual and then advised pension schemes of GMP entitlements when the individuals reach state pension age.
3. There are complex regulations regarding annual inflationary increases to the GMP element of an individual’s pension and the dates at which it becomes payable to the scheme member. The Government decided that with effect from 6 April 2016 contracting-out would be abolished, coinciding with the introduction of the new single tier pension, and as a result HMRC are providing a one off service to enable schemes to reconcile the GMP figures they hold with those held by HMRC.
4. It is important to reconcile the GMP element recorded on the pension fund administration system, as well as the pensioner payroll system with that held on the HMRC database, to ensure that pensions coming into payment, together with those already in payment, are paid at the correct amount, and that the liabilities of the pension scheme, so far as GMP values are concerned, are represented accurately at each future valuation.
5. GMP reconciliation is the process of comparing the Pension Fund’s GMP information with that held by HMRC. It investigates any discrepancies between the two sets of figures so that the Fund and HMRC end up with consistent GMP data and benefit records. HMRC’s starting position is usually that its data is automatically correct (although this is not always the case) unless the pension fund can prove otherwise. This puts the investigative responsibility and costs fully onto the pension fund. The reconciliation has involved considerable investigative work, reviewing data and benefit accrual.
6. The HM Treasury working group also provided the following recommendations on how any discrepancies identified through reconciliation process should be dealt with:
 - Pensioners that have been underpaid should receive their pension arrears in full, with interest in accordance with scheme rules.

- Cases where pensioners have been overpaid should be considered in the context of the overall extent of any overpayments, and a view taken over whether there will be value for money recouping overpayments
- Where discrepancies are small, for example if a service period discrepancy is less than a year, or if the discrepancy in weekly GMP amount is no more than £2, schemes should use the data provided by HMRC in respect of any individuals who have not reached state pension age, or the data held by the scheme in respect of any individuals who have reached state pension age.

7. The Local Government Pension Committee (LGPC) has recommended the following approach to post 5 April 1997 contracted out data:

- Where contracted-out records appear on HMRC records but no corresponding LGPS pension records exist within its fund, LGPS Administering Authorities should investigate all cases.
- Where dates of contracted-out service differ, each LGPS Administering Authority should only investigate those cases where in its view there is a significant risk to LGPS benefits or process.
- Where contracted out records do not appear on HMRC records but an LGPS pension record exists within the fund, each LGPS Administering Authority should notify HMRC of the discrepancy but only investigate those cases where in its view there is a significant risk to LGPS benefits or process.

8. The LGPS views this approach as representing a cost effective means of minimising risk of incorrect benefits while avoiding unnecessary and costly duplication of the work already undertaken to ensure records are accurate.

Cheshire Pension Fund - Table of Administration Casework Limits

Case Type	Explanation	Casework Limit	Detail	Additional Information
Refunds (NEW)	A member who has left employment but has not built up enough service to receive a pension and so is due a refund. Members will always be notified of their refund value where possible. These often include cases where the Fund does not hold a current address for the member and has been unable to contact the member to make the payment.	£25 (currently £10)	Payments below £25 are not refunded unless a request is received from the member. If member does not respond and the value is less than £25 they will not be chased a second time. Members with payments below £25 will not be included in any tracing exercises. The benefit will be held and if the member starts a new post the membership will be combined.	Where the member specifically requests the payment, the value will be paid to them.
Balance of pension payments on death	In the event of the death of a pensioner member who was due an element of that month's pension.	£10	No payments are made if the value is below £10.	

Case Type	Explanation	Casework Limit	Detail	Additional Information
Deferred benefits into pay	A member who has left employment and had built up enough service to receive a deferred pension which has been held until the member reaches normal retirement age. Member notified of deferred benefit value.	£10	No payment is made if the annual pension totals less than £10 per annum.	Where the member specifically requests the payment, the value will be paid to them.
Recalculation of retirement benefits and deferred benefits	If pay details or date/reason for leaving is amended after benefits have been calculated then the benefits may be recalculated and adjusted.	£50	A pension recalculation will not be made if the change in the value of final pensionable pay is less than £50.	
Overpayments of deceased pensioners pension payments	In the event of the death of a member part way through a month where the pensioner has received the full pension payment for that month.	£250	The Fund will not recover an overpayment of pension for the month of death or if the overpayment is less than £250.	The Fund already has an overpayment policy confirming this limit which was approved by the Committee some years ago.