

Employer Roles and Responsibilities

Staffordshire Pension Fund

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The Context



Statutory Public Service Pension Scheme

- Funded
 - £275 billion in 88 Funds
 - £4.7 billion in Staffordshire Pension Fund
- 14,785 employers in scheme
 - 400+ in Staffs

Joining the scheme

- A range of “Scheme employers”
 - Schedule 2 Part 1 bodies **must** offer the scheme
 - e.g. County, District and Borough Councils, London Boroughs, Unitary authorities, FRAs, P&CC, Academy Schools
 - Schedule 2 Part 2 bodies can **choose to** offer the scheme through a designation
 - e.g. precepting authorities - Parish Councils, Town Councils, entities ‘connected’ with a Part 1 body
 - Admission bodies
 - Deemed employers

Joining the scheme

- If eligible, enrolled **contractually**
 - Providing has 3 month or more contract
 - Aged under 75
 - Not eligible for another Public Service Pension Scheme
- “Auto-enrolment” is different

Auto-enrolment

Overriding law, “staging” phased in 2012-2017

- Assess workforce
- Can use “postponement” up to 3 months

Eligible Jobholder

Works in UK

Age **22 to SPa**

Earns **> £10k**

**Automatically
enrolled**

Non Eligible Jobholder

Entitled Worker

Can opt in

Auto-enrolment

- Very rigid / prescriptive rules
 - Tell EJs they have been enrolled, specified information and inform opt out right
 - NEJs & EWs can join
 - Process opt outs/ins
 - Keep accurate records of compliance
 - Keep records about scheme
 - Monitor workers eligibility
 - Avoid action to induce opt outs
- Comprehensive info available at www.lgpsregs.org
- The LGPS is a qualifying auto-enrolment scheme
- Re-enrolment takes place every three years

Contracts for < 3 months

- Contractual enrolment from auto-enrolment date
- So an Eligible Jobholder is **contractually** enrolled on commencement
- “postponement” can be used to avoid this
- Not denying access!
 - Postponed EJs, and NEJs and EWs can still opt in if they want to
- Note: If contract is extended to 3 months+, the person is **contractually** enrolled from 1st of next pay period.

Providing information

- Staffordshire require new starter information within 4 weeks of joining
- Basic information about LGPS must be given by AA within just 2 months
 - On auto-enrolment that time limit is just 1 month from the date you tell them about the new member
- Each new member should complete a “form”
 - “new starter” forms are about much more than new starter information

Opting out (and in)

- Opt outs are effective from the date the person specifies
 - (As long as it's not in the past or before employment starts)
 - Else they cease at end of current pay period
- < 3 months' in the LGPS – refund by employer
- > 3 months but < 2 years – refund from Fund
- > 2 years – deferred benefit
- **Employers mustn't issue opt-out forms (since AE)**
- Members who opt out after 11/4/15 can rejoin but cannot combine any accrued deferred benefits
- Opt ins – member remains eligible
 - Can opt in writing to employer, in scheme day 1 next pay period
 - On automatic re-enrolment

ONE SCHEME, TWO SECTIONS

- The 50/50 Option is a halfway house for those who can't afford the "main" section
- "Pay half, get half" from a personal viewpoint
 - Other benefits retained in full (death etc.)
- On election for the 50/50 section
 - Employee Conts halved from 1st of next pay period
 - Accrual rate halved to 1/98th at same time
- Employer required to give the member information on the effect on their benefits
- Note that whilst whole cost APCs would have to cease
 - All other additional contributions remain payable in full

The 50/50 Option lapses

- 50/50 not designed to replace “full” membership permanently
- Member moved back into the main section 1st day of next pay period after the **employer's** re-enrolment date
 - Irrespective of category of worker for auto-enrolment purposes
- Also, member moved back into main section from 1st day of next pay period following starting no pay sick

DECIDING THE CONTRIBUTION RATE

- Employer has to decide employee contribution rate
 - On commencement for new members
 - From time-to-time thereafter
- Employer must, ASAP, notify rate, date to be applied from, and right of appeal
- Let's have a look at the bandings

2019/20	Main Section	50/50
Actual Pensionable Pay	Gross rate	Gross rate
Up to £14,400	5.5%	2.75%
£14,401 - £22,500	5.8%	2.9%
£22,501 - £36,500	6.5%	3.25%
£36,501 - £46,200	6.8%	3.4%
£46,201 - £64,600	8.5%	4.25%
£64,601 - £91,500	9.9%	4.95%
£91,501 - £107,700	10.5%	5.25%
£107,701 - £161,500	11.4%	5.7%
£161,501 or more	12.5%	6.25%

Actual pay rather than full-time equivalent is used in the assessment.

Note that reductions in pay due to sickness, child related leave etc. are ignored.

Just what is “actual” pay

- Zero-hours contracts etc.
 - Someone’s going to have to take an educated guess
- For others, perhaps base rate on:
 - Contractual Pay p.a.
 - That, plus estimate of O/T or extra hours
 - Hourly rate x estimated hours p.a.
 - Weekly rate x 52.143
 - That, plus estimate of other pensionable pay
- And review at a later date in the light of experience?

“Reallocation”

- Actual regulations provide for annual inflation
 - And employers MUST reassess each 1 April
- And they can choose to reattribute periodically on material change in pay (e.g. promotion or job evaluation)
- Depending on stance taken on initial decision, the employer could then review periodically:
 - Every pay period and charge rate for that period
 - Every pay period taking a year-to-date pay
 - Quarterly
 - Month 11
 - Next year
- Employer must, ASAP, notify rate, date to be applied from, and right of appeal

Multiple employments

- Pays contribution rate on all PP in that job
- Where 2 or more jobs exist, rate assessed on each job
- So let's say Job A salaried at £20,000 and B at £24,000
- Pays 5.8% on Job A and 6.5% on Job B
- But if there's only one employment relationship?
 - Combined salaries = £44,000
- Single contribution rate is 8.5%
- If contribution rate is employer payroll software driven?
 - Essential "it" knows the score!

PAYOVER OF CONTRIBUTIONS

- Admin Authority set the timescale
- Staffs PF require payment by 19th working day of month after contributions deducted – both employees and employers
- Every pay-over should be accompanied by a statement !
- From April 2015 late pay over of employee contributions reportable to tPR (if material)
- Additional employer payments to be paid over by a deadline set by the Fund
 - Including, where relevant, contributions towards administration costs in consequence of poor performance... in the Admin Authority's opinion

CUMULATIVE PENSIONABLE PAY

- Total of “Actual” Pensionable Pay and/or “Assumed” Pensionable Pay
 - In relevant section of the scheme, in the scheme year, for the job
- Think of it as physical pay and notional pay
 - Real pay and Assumed pay



PENSIONABLE PAY DEFINITION

- “Everything” is pensionable but for:
 - Sums not declared for tax
 - Travelling & Subsistence
 - Bought-out holiday entitlement
 - Payment in lieu of Notice
 - “Please don’t leave” payments
 - Lease Cars / Cash Equivalent
 - Payments in consideration of loss of future pensionable payments or benefits
 - Equal Pay Compensation
 - Pay paid by Employer to member on RFSL
 - Returning Officer fees **other than**:
 - LG elections, Welsh National Assembly, Parliamentary, European

Salary Sacrifice Schemes

- Is salary sacrifice pensionable?
- If specified in the contract as pensionable

- Autumn Statement 2016 clampdown
- From 2017, “perk” being taken away
 - But not all perks
 - Pension (SCAVC)
 - Childcare
 - Cycle-to-work
 - **Not cars**
 - Accommodation and school fees to April 21 if in place < April 17

Example Pension Account

Scheme Year ending on	Cumulative Pensionable Pay in year	Accrual Rate	Earned Pension	Carry forward from previous scheme year	Total	Revaluation on 1 st April	Total Pension to carry forward
31/3/2015	£8,900	1/49	£181.63	£0	£181.63	1.2%	£183.81
31/3/2016	£4,500	1/98	£45.92	-		-	-
31/3/2016	£5,200	1/49	£106.12	£183.81	£335.85	-0.1%	£335.51
31/3/2017	£9,700	1/49	£197.96	£335.51	£533.47	1%	£538.80
31/3/2018	£10,600	1/49	£216.33	£538.80	£755.13	3%	£777.78

Service Breaks

- Drop in pay = drop in pension
- Child-related leave
- Authorised Absence
 - Career breaks
 - Holiday purchase
 - Unpaid special leave
- Strike
- Reserved Forces Service leave
- Unauthorised Leave

Child-related leave

- During Ordinary Maternity/Parental/Adoption Leave, and
- **Paid** Shared Parental Leave / **Paid** Additional Maternity/Adoption Leave
- “assumed pensionable pay” applies
- Unpaid additional maternity/adoption or shared parental leave – treated as authorised unpaid leave

Authorised unpaid leave

Can be counted for pension through APC purchase

Maximum period is 3 years

- Scheme members will pay an APC if they want to
 - Based on APP “lost” during the absence
- If member “elects within 30 days”
 - Employer must pay **2/3rds** of the cost of the APC
 - (known as a SCAPC)
- Can pay by one off payment or regular payment
- As now, KIT days “count” anyway

Trade Dispute

- After return members can pay an APC if they wish to replace the lost pension
 - Based on pay “lost” whilst on strike
- No employer contribution during strike
- No employer contribution if the member “buys back”
 - Member pays the full cost

Sickness / Injury

- Employee pays contributions on actual pay
 - But gets pension based on APP (if reduced contractual pay)
- Employer:
 - Pays contribution on APP

Unauthorised Leave

- Employee no right to buy the “lost” pension

Reserved Forces Service Leave

- Special rules

Informing the Fund

- Employer must inform members of the right to “buy back” breaks
- Employer must inform the fund within 20 days of:
 - Maternity
 - Paternity
 - Career Break
 - Authorised Unpaid Leave
 - Reserved Forces Service Leave
 - Strike Breaks
 - Unauthorised Absence

OBLIGATIONS TO PROVIDE INFO

- Legally the employer must:
- *inform the ... administering authority of all decisions made by the employer under regulation 72 (first instance decisions) or by an adjudicator appointed by the Scheme employer under regulation 74 (applications for adjudication of disagreements) concerning members; and*
- *give that authority such other information as it requires for discharging its Scheme functions.*

OBLIGATIONS TO PROVIDE INFO

- An administering authority may give a written notice under regulation 70 of the 2013 Regulations (additional costs arising from Scheme employer's level of performance) where
- *“it has incurred additional costs which should be recovered from a Scheme employer because of that employer's level of performance in carrying out its functions under these Regulations.”*

Membership related data

- Even though going forward it's pay to calculate CARE pots, the AA still needs info on:
 - Changes in contractual hours / contractual weeks
 - Breaks in membership not covered by APCs
- For anyone with pre-14 membership, because of the:-
 - Underpin
 - Added years contracts
 - Ill-health enhancements for pre 1/4/2008 joiners
 - Rule of 85

END OF YEAR RETURNS

- Format specified by the Admin Authority
- Scheme Year ending 31/3
- Staffordshire require by 30 April
- Data is used to:
 - Create CARE accrual for that year (if annual interfaces)
 - Run benefit statements (31 August deadline!)
 - Run Pension Saving Statements (6 Oct)
 - Validate against data held
 - Run the Valuation etc.

Typical Data Requirements

- The employee's name and gender;
 - the employee's date of birth and national insurance number;
 - a unique reference number relating to each employment in which the employee has been an active member;

 - the dates of active membership;
 - the pensionable pay in the main section;
 - the pensionable pay in the 50/50 section;
 - employee contributions paid while in the main section;
 - employee contributions paid while in the 50/50 section;
 - employer contributions paid on the employee's pensionable pay;
 - employee additional pension contributions (APCs);
 - employer additional pension contributions (APCs);
 - employee in house AVC contributions; and
 - employer in house AVC contributions
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Typical Data Requirements

- Plus for Pre 14 members
 - “Pre 2014” data – e.g. Final Pay
 - Easier to provide for all?
 - AA requirements

NOTIFYING ALL LEAVERS OF THEIR BENEFIT ENTITLEMENTS

- Admin Authority decides any question regarding:
 - *previous service... crediting of additional pension... or amount of any benefit...*
 - Employer decides
 - *any question concerning any other matter relating to the person's rights or liabilities under the Scheme.*
-

NOTIFYING ALL LEAVERS OF THEIR BENEFIT ENTITLEMENTS

- First Instance Decisions
 - *As soon as is reasonably practicable*
 - Entitlement to Benefit
 - Amount of Benefit
 - Notification of those Decisions
 - *As soon as is reasonably practicable*
 - BUT Overriding Legislation gives:
 - 2 months – Early Leavers “Rights and Options”
 - 1 month when a benefit becomes payable (2 if before NPA)
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NOTIFYING ALL LEAVERS OF THEIR BENEFIT ENTITLEMENTS

- Employer required to:
 - Provide a leavers form by end of next month after leaving
 - Member retires
 - Notify fund as soon as practicable, before retirement date if possible
 - Ill health retirement
 - Notify fund within 10 days of decision
-

EMPLOYER DISCRETIONS

- These are the LGPS ones subject to a policy:
- 2013 Regs
 - Awarding Additional Pension
 - Shared Cost Additional Pension Contributions
 - Flexible Retirement
 - Early payment of benefits (pre-60) and switching on the 85 Year Rule
 - Waiving actuarial reductions

And there's more:

- 2007 Regs
 - Waiving actuarial reductions (compassionate)
- 1997 Regs
 - Waiving actuarial reductions (compassionate)
 - Councillor (and pre-1/4/08 employee) optants-out

Lots to do, lots to think about

- “New” policies
 - 3 month time limit
- Changing policies
 - 1 month time limit
- All policies
 - SERIOUS LOSS OF CONFIDENCE RULE!
- Help available on-line at www.lgpsregs.org
 - Discretions Policies paper / Full discretions listing
- An observation:
 - Follow the leader a dangerous game?

INTERNAL DISPUTE RESOLUTION PROCEDURE (IDRP)

- Certain decisions must be made by employers or administering authorities
- IDRP allows people to appeal if they disagree with a decision
 - Or if they claim maladministration

IDRP Stage 1

- Complaints against employer decisions to the employer
 - “Adjudicator”
 - Within 6 months
 - Uphold or replace decision
- Complaints against administrator decisions to the administrator
 - “Adjudicator”
 - Within 6 months
 - Uphold or replace decision

IDRP Stage 1

- Typical employer decisions
 - ill–health retirement
 - pensionable pay
 - scheme entry
 - contributions
- Typical admin authority decisions
 - Death grant recipients
 - Transfers in/out
 - Benefit calculations

IDRP Stage 1

Appoint adjudicator

Inform Staffs PF (30 days)

Reply to appeal in 2 months or

Inform when reply possible

to

Applicant

to

Employer

to

Staffs PF

IDRP Stage 1

Reply must set out

The decision

Legislation

**If discretion – the regulations
conferring this**

Right of appeal to AA

**Money and pensions service
available for guidance**

IDRP Stage 2

- If unhappy with stage 1 decision, can appeal to the Administering Authority (stage 2)
 - To review decision - take a fresh look
 - (a person not involved previously)
 - Uphold or replace decision

Outsourcing and admission agreements

- The Best Value Authorities Staff Transfers (Pensions) Direction 2007
 - protects TUPE'd staff of best value authorities where service contracted out
 - must ensure access to broadly comparable scheme; or
 - continued access to LGPS –through an admission agreement
- Early engagement with AA vital
 - Liaise with actuary
 - to assess employer contribution rate
 - assess bond requirement
 - draw up admission agreement

Outsourcing and admission agreements

COUNCIL

Outsources



**TUPE
Transfer**

PRIVATE CONTRACTOR

Admitted Body Status

**Pension
Liability**

Admission Agreement between Admin
Authority, Employer and Contractor

Outsourcing and admission agreements

- Admission agreements
 - open or closed
 - closed more common for outsourcings
 - closure costs possible
- Fair Deal
 - covers academy schools
 - continued access to LGPS –through an admission agreement
 - engage with AA early
 - recent consultation

Outsourcing and Deemed Employer

COUNCIL
Retains
Outsources

PRIVATE CONTRACTOR



TUPP
Tr

Pension
Liab

Consulted on

Council becomes the "Deemed Employer".
Retains risk and pays employer contributions

Current HM Treasury consultation

- Limit the cost of a public sector 'exit' to £95,000
- Exit cost includes pension strain cost paid by employer and cash payments to the member
- 'Standard' strain cost calculation?
- What if strain cost exceeds £95,000?
 - We don't know yet
 - Reduced pension?
 - Cash alternative?
 - Employer purchase APC?
- Original consultation in 2015, re-surfaced 2019

Further exit payment reform



Limits on severance payment:

- Max week's pay
- Max weeks per year of service
- Max 15 months
- Min pension age to track SPA
- Recovery of exit payment when a high earner returns to public sector employment within a year

Original consultation in 2015

Further help

More detailed information including HR and Payroll guides available at:

<http://lgpsregs.org/resources/guidesetc.php>

Staffordshire Pension Fund documents:

Administration Strategy (from 1/7/19)

Employer Factsheet

Any questions?