

Heads of Agreement New Local Government Pension Scheme (Scotland)

12 December 2013

Agreed by: **Scottish Local Government
Pensions Advisory Group (SLOGPAG)**



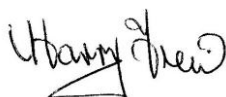
Stephen Gallagher
Head of Local
Government Division



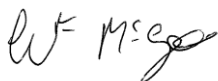
Cllr David O'Neill
COSLA President



Alex Mcluckie
GMB Scotland



Harry Frew
UCATT



William McGonigle
UNITE



Dave Watson
UNISON



Foreword

This document sets out the terms of the agreement reached by the Scottish Local Government Pensions Advisory Group (SLOGPAG)¹ on the content and operation of a new Local Government Pension Scheme (LGPS) 2015 for Scotland. Re-convened in October 2012, SLOGPAG has taken a collaborative approach towards developing this new scheme - a scheme that meets Scottish needs and has been forged in partnership. All parties have participated equally in an open and transparent process, which has been underpinned throughout by an ethos of mutual respect.

The reform of the LGPS, as with all the main public sector pension schemes, follows Lord Hutton of Furness' report of March 2011 and the resulting Public Service Pensions Act 2013. The primary aim of SLOGPAG was to facilitate the delivery of a scheme that takes a balanced consideration of the unique Scottish position, continues to provide valued benefits for scheme members, and is affordable, sustainable and fair to employers, scheme members and tax payers. Consequently, the high level objectives for the reform of the LGPS were set as follows:

- To ensure the sustainability of the scheme, the design of the new scheme should be such that existing members remain in the scheme and non-members are encouraged to join.
- Levels of contribution rates which ensure protection of the lowest paid within the workforce.
- Provide quality benefits to scheme members.

The scheme design has also been subject to a robust and independent Equality Impact Assessment to ensure it meets all legislative equality requirements in both effect and intent; to include inter-gender and inter-generation equity.

The new LGPS (Scotland) will take effect from 1 April 2015 replacing the existing scheme from that date. When the new scheme commences all existing scheme members and new entrants will become members of the new LGPS (Scotland).

This agreement provides for a reformed scheme, which meets the legislative requirements of the Public Service Pensions Act 2013 (the Act), and delivers a scheme which is fair and valued by all scheme members – full time and part time workers; and long and short serving employees alike. The new scheme represents a fair deal for Local Government workers, employers and for the taxpayer, ensuring that the scheme remains both affordable and sustainable.

¹ SLOGPAG is a partnership between COSLA, trade unions for Local Government in Scotland and the Scottish Government

Executive Summary

1. This agreement meets the requirements of the Act and the high level objectives set by SLOGPAG for a new, reformed LGPS in Scotland. It delivers a scheme that provides valued benefits for scheme members, is fair for all stakeholders and, crucially, is affordable and sustainable for the longer-term. Headline features of the new scheme include:
 - a) Change to a Career Average Revalued Earnings Scheme - this change reflects a requirement within the PSP Act. This type of scheme is particularly beneficial for lower paid members, individuals for whom promotion opportunities are limited or those where their earnings may reduce towards the end of their career.
 - b) Change in the accrual rate from 1/60th to 1/49th
 - c) Retention of the 5 point tiered employee contribution rate, which is 'banded'. This provides for fairer contribution rates for scheme members at the lower end of the pay scale. As contributions benefit from tax relief, a tiered arrangement of contributions, where scheme members pay a proportion of earnings up to each limit and then higher contributions on earnings above each limit, also improves the perceived fairness of contributions at different salary levels.
 - d) Lump sum death in service benefit remains at three times pay
 - e) Pensions for partners who cohabit and civil partners equal to those benefits afforded to married couples. There will be no requirement to nominate a cohabitee.
 - f) Retention of the ill-health pension provisions through a two-tier benefit scheme, with a third tier provided by a discretionary employer lump sum payment to operate alongside the scheme.
 - g) The 50:50 Option – this is a new scheme design feature which allows employees eligible for LGPS membership or scheme members to elect to pay 50% of normal contributions, and in return accrue only 50% of their pension during that time. Death in service benefits will, however, be paid in full. This feature is not designed to replace long term membership of the full scheme.
 - h) The scheme has been designed to help ensure it is both fair and affordable into the future. The Act also requires that costs are managed through a cost control mechanism which requires the scheme to set a cap, the 'employer cost cap'. This cap is used when measuring changes in the cost of the scheme as assessed at valuations and will ensure that action is taken if the cost of the scheme increases or decreases outside of the margins set around the 'employer cost cap'.
2. An 'at a glance' guide to the features of the proposed post 2015 LGPS can be found at **Annex A**.
3. SLOGPAG recognises the critical role governance has in supporting the delivery of excellent LGPS performance and therefore encourages and supports good practice through open and transparent governance arrangements. SLOGPAG is reviewing the governance arrangements within its agreed remit of developing a new Scottish LGPS. Current governance proposals can be found at **Annex B**.

Role of SLOGPAG

4. SLOGPAG comprises representatives of COSLA (on behalf of councils and administering authorities), Local Government Unions and the Scottish Government.
5. This group was tasked with developing a new Scottish LGPS in line with Scottish needs and within the framework of pensions' legislation, which delivered a scheme which is fair to all, as well as being legal and affordable over the longer term. All parties agreed to work towards achievement of the high-level objectives. Specific responsibilities were agreed, as follows:
 - a) The Scottish Government has responsibility for facilitating the work of the tripartite group, liaising with Ministers, and ensuring proposals aligned with strategic policy issues in relation to local government (including financial aspects).
 - b) The Scottish Public Pension Agency will support the wider Scottish Government role, whilst also providing advice on regulatory issues and the broader public service pension context (including consistency with other schemes), and validation of the legal, financial and evidential elements of options. SPPA are also responsible for working in conjunction with the Scottish Government Legal Directorate (SGLD) to develop the new scheme regulations.
 - c) Supported by employers' representatives, COSLA's key role will be to discuss with unions the options for, and terms of, the new scheme, preparation of the affordability case and provision of statistical and other evidence from local authorities. COSLA and employers' representatives will also play the key role in liaising and consulting with local authorities, disseminating outcomes to local authorities, and supporting co-ordination of local authorities' dissemination of outcomes to scheme members.
 - d) Unions will have responsibility for discussing with COSLA the options for, and terms of, the new scheme. Unions also have a role to liaise and consult with trade union members.
 - e) The Government Actuary's Department will provide technical actuarial support throughout the reform process. All parties reserve the right to take separate advice if thought necessary. All parties will take responsibility for obtaining their own legal advice.

Annex A – At a glance proposed terms

Scheme Feature	New LGPS(Scotland)
Type of scheme	Defined Benefit, Career Average with Revaluation of Earnings (CARE)
Revaluation (CARE)	Based on the Consumer Prices Index (CPI)
Accrual rate	Annual pension benefits to accrue at a rate of 1/49 th
Normal Pension Age	Set equal to an individual's State Pension Age, with a minimum of age 65
Minimum Pension Age (MPA)	All new scheme members to have Minimum Pension Age of 55 years. Transitional arrangements permit all current scheme members to have Minimum Pension Age of 55, except for any member who was in the scheme on or before 5 April 2006 whose employment is terminated on grounds of redundancy or efficiency and is aged 50 or over at that point. Such members will have a protected pension age of 50.

Annex A – At a glance proposed terms

Scheme Feature	New LGPS(Scotland)												
Contribution rates for scheme members	<p>Maintaining the five-tier employee contribution rate structure agreed for the LGPS in 2008 to deliver an average employee contribution rate of 6.3%. Employee contribution tiers operate on a banding system, as follows:</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Pensionable pay</th> <th style="text-align: center;">Rate (%)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">On earnings up to and including £19,800</td> <td style="text-align: center;">5.5%</td> </tr> <tr> <td style="text-align: center;">On earnings above £19,800 and up to £24,200</td> <td style="text-align: center;">7.25%</td> </tr> <tr> <td style="text-align: center;">On earnings above £24,200 and up to £33,200</td> <td style="text-align: center;">8.5%</td> </tr> <tr> <td style="text-align: center;">On earnings above £33,200 and up to £44,200</td> <td style="text-align: center;">9.5%</td> </tr> <tr> <td style="text-align: center;">On earnings above £44,200</td> <td style="text-align: center;">12%</td> </tr> </tbody> </table> <p>Band values shown are for 2013/14 and are increased each year in line with CPI.</p> <p>Employee contributions payable on actual earnings rather than Whole Time Equivalent earnings. Employee contribution rates apply to all active members of the LGPS in Scotland.</p>	Pensionable pay	Rate (%)	On earnings up to and including £19,800	5.5%	On earnings above £19,800 and up to £24,200	7.25%	On earnings above £24,200 and up to £33,200	8.5%	On earnings above £33,200 and up to £44,200	9.5%	On earnings above £44,200	12%
Pensionable pay	Rate (%)												
On earnings up to and including £19,800	5.5%												
On earnings above £19,800 and up to £24,200	7.25%												
On earnings above £24,200 and up to £33,200	8.5%												
On earnings above £33,200 and up to £44,200	9.5%												
On earnings above £44,200	12%												
Contribution rates for employers	<p>These will vary depending on LGPS fund and will be set as a result of triennial valuations (actuarial reviews) of the scheme.</p> <p>The scheme will also incorporate a cost sharing mechanism to ensure sustainability of the scheme over the long term, in line with the requirements of the Public Service Pensions Act 2013.</p>												
Contribution Flexibility - 50/50 option	<p>Able to opt to earn half of the level of pension benefits in return for paying half the amount of contributions. Individuals opting for this will accrue pension at a rate of 1/98th of their pensionable pay received, rather than at the scheme's standard accrual rate of 1/49th.</p>												

Annex A – At a glance proposed terms

Scheme Feature	New LGPS(Scotland)
Flexible retirement	An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the Scheme employer's consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled to in respect of that employment. This provision allows a member to access pension benefits whilst remaining in employment.
Early retirement	A member who leaves a local government employment before normal pension age but who is age of 55 or over (but under age 60) may elect to receive immediate payment of a retirement pension <i>with their employer's consent</i> . Above age 60 the employers consent is no longer required. The pension is actuarially reduced by the appropriate amount to ensure this is cost neutral for the scheme.
Working beyond Normal Pension Age	The ability to accrue service in the LGPS beyond Normal Pension Age up to age 75. Cost-neutral uplift factors for benefits accrued beyond Normal Pension Age.
Lump sum	The option to convert up to 25% of pension to lump sum (in line with the HMRC upper limit)
Commutation of Pension to Lump Sum	At a rate £12 of lump sum for £1 of pension

Annex A – At a glance proposed terms

Scheme Feature	New LGPS(Scotland)
Ill health benefits	<p>Remains as before - two entry point ill health provision where scheme members who are permanently incapable of carrying out efficiently the duties of their job:</p> <ul style="list-style-type: none"> (i) have no reasonable prospect of undertaking gainful employment before scheme normal retirement age of 65(Tier 1) ; or (ii) have a reasonable prospect of undertaking other gainful employment before age 65 (Tier 2). <p>Transitional protection for existing scheme members whose service enhancement would be less than under current arrangements (to be reviewed after three years).</p>
Ill-health gratuity	<p><u>Third tier</u>, outside the pension scheme, consisting of one-off lump sum payment by employer at their discretion. Calculated on one week's pay per year of service and limited to maximum of 30 weeks' pay. Covers those whose employment is terminated on capability grounds, who are not in receipt of ill-health benefits and who have a reasonable prospect of undertaking further gainful employment before age 65.</p>
Certificate of Protection	<p>Certificate awarded where reduction in pensionable pay is outside of the member's control. Certificate means that upon retiring within lifetime of certificate (10 years) their pension is calculated based on their previous (higher) salary, rather than on their reduced pay.</p>
Death in service arrangements	<p>A lump sum death grant of 3 times 'assumed pensionable pay' (see below for definition of assumed pensionable pay)</p>
Partner & Survivor pensions	<p>Pensions for partners who cohabit and civil partners equal to those afforded to married couples. No requirement to nominate cohabitee.</p> <p>Dependants' benefits payable in respect of widows, widowers, civil partners, children's pensions plus unmarried partners who cohabit, at rate of 1/160th.</p>
Vesting period	<p>2 Years - If a person's qualifying service in the Scheme is for less than two years, that person is entitled, when that active membership ceases, to be repaid contributions by the administering authority.</p>
Abatement	<p>None</p>

Annex A – At a glance proposed terms

Scheme Feature	New LGPS(Scotland)
Buy back (child-related/reserve forces/trades dispute/absence with permission)	Option to make retrospective contributions in respect of certain periods of leave, to enable such periods to count as pensionable.
Award of Additional Pension	Employing authority may resolve to award an active member additional pension of not more than £5,000 per year.
Commutation of small pensions	Calculated in accordance with guidance issued by Scottish Minister with advice from the scheme actuary.
Transitional Protection	<p>If a scheme member was within 10 years of retirement (Normal Pension Age) at 1 April 2012, they will be eligible for the underpin which provides for a member to have the greater of the benefits payable under either the new scheme or that would have been payable under the old (current) scheme.</p> <p>Scheme members who currently qualify for the Rule of 85 transitional protection will accrue at the new rate, but will also be able to retire on an unreduced pension when the rule is met. This transitional protection (relating to the Rule of 85) will end in 2020.</p>
Pensionable Pay	Retain “non-contractual overtime” under exclusions. Amend Regulations to include a definition of non-contractual overtime; “overtime above the hours of a standard full-time working week that the employee is not contracted to work”.

Scheme Feature	New LGPS(Scotland)
Assumed Pensionable Pay	<p>Assumed Pensionable pay used where previous calculations were based on service e.g. relating to sickness / injury, child-related leave and reserve forces service leave.</p> <p>(1) where the member is paid monthly;</p> <p>(i) the pensionable pay the member received relating to that employment in the 3 months preceding the start of the pay period in which the sickness/ leave began;</p> <p>(ii) less any regular or irregular lump sum received;</p> <p>(iii) with the resulting sum being grossed up to an annual figure;</p> <p>(iv) to which any regular lump sum payment received should be added;</p> <p>(2) where the member is paid otherwise than monthly;</p> <p>(i) the pensionable pay the member received relating to that employment in the 13 weeks preceding the start of the pay period in which the sickness/ leave began;</p> <p>(ii) less any regular or irregular lump sum received;</p> <p>(iii) with the resulting sum being grossed up to an annual figure;</p> <p>(iv) to which any regular lump sum payment received should be added.²</p>

² Subject to agreement of final detail

Scheme Governance proposals

- The Public Service Pensions Act 2013 identifies 4 core governance related roles which must be established from 1 April 2015:
 - a. Responsible Authority – the Scottish Ministers who make the regulations for the LGPS (Scotland)
 - b. Scheme Manager – the function of managing and administering the scheme
 - c. Pension Board – the body responsible for assisting the Scheme Manager in relation to compliance with scheme regulations and the requirements of the Pensions Regulator
 - d. Scheme Advisory Board – the body responsible for providing advice to the Responsible Authority, at the authority's request, on the desirability of changes to the scheme. The Scheme Advisory Board also provides advice to the Scheme Manager and Pension Board in relation to the effective and efficient administration and management of the scheme.
- SLOGPAG recognises the critical role governance has in supporting the delivery of excellent LGPS performance and therefore encourages and supports good practice through open and transparent governance arrangements.
- SLOGPAG will review the governance arrangements within its agreed remit of developing a new Scottish LGPS. Topics for consideration will include, but are not limited to:
 - a. The structure of the 4 governance related roles identified by the Public Service Pensions Act 2013
 - b. The membership and constitution of the Scheme Advisory Board
 - c. Operation of the cost control mechanism
 - d. The requirements of the Pensions Regulator
 - e. Publication of scheme information
 - f. Relevant provisions in the Institutions of Occupational Retirement Provision (IORP)
 - g. Data collection
- SLOGPAG will discharge its duties, as defined in the 'Role of SLOGPAG' document agreed by SLOGPAG members in December 2012, and will then cease to operate.
- The Scheme Advisory Board will be established from 1 April 2015 and the establishment of a Shadow Scheme Advisory Board will be kept under review, but such a Shadow Scheme Advisory Board is anticipated to be beneficial from Autumn 2014 onwards.
- It is anticipated that the Scheme Advisory Board will be bilateral with an equal number of employer and employee representatives. There will be an independent chair and the size of the Board will be around 15 people. In addition, advisors and observers will also attend the Board but will not have membership status.
- SLOGPAG or the Shadow Scheme Advisory Board, as appropriate, will establish a process, commencing April 2014, to consult on, and collate data relevant to, a review of the structure of the Scottish LGPS, in order for the Scheme Advisory Board to be in a position to complete such a review.