

24 February 2010

Circular 02/2010

To: Salaries and Wages Departments
Human Resources
Pensions Contacts

Dear Colleagues

Local Government Pension Scheme (NI) Update

1. Purpose of this Circular

This circular has been issued to update authorities on the following matters:

- Increase in minimum retirement age to age 55 from 1 April 2010
- Employer contribution rates increase to 17% from 1 April 2010
- Annual returns
- Statutory Guidance on ill-health retirements
- Policy Statements
- Contributions on arrears
- Flexible Retirement update
- Career Breaks
- High earners communication
- Nominated co-habiting partners
- Recovery of VAT
- Remittance of AVC contributions should be directly to Prudential and reminder on '19 day rule' for remittance of contributions
- Forms – destroy stock of old forms
- Talking to your employees about pensions – helpful advice from The Pensions Regulator

- Employer Training
- Contacts for circulars – update contacts list
- NILGOSC Pensions Administration Teams

2. Increase in minimum retirement age to age 55 from 1 April 2010

Further to previous advice, the minimum retirement age increases for active members who were contributing to the Scheme on 1 April 2009 from age 50 to age 55 on 1 April 2010.

Active members who joined the Scheme before 6 April 2006

Early retirements with employer consent, flexible, redundancy and efficiency retirements for anyone aged between 50 and 55 must have a leaving date of 31 March 2010 or earlier. Please forward all termination forms to NILGOSC as early as possible.

Active members who joined the Scheme after 5 April 2006 have stricter HM Revenue and Customs rules and in these cases, where members are retiring between age 50 and 55, **we will require all paperwork both from member and employer before 6 April 2010. If anyone falling into this category is making AVC payments they will be unable to make their March payment.** The reason for this is that NILGOSC must be in a position to pay out all their benefits (including any AVC fund) before 6 April 2010, otherwise their pension and lump sum will be unauthorised payments and incur a 40% tax charge to the member. For the avoidance of doubt this applies to early retirements with employer consent, flexible retirements, redundancy and efficiency retirements. NILGOSC will prioritise dealing with any retirees in this group.

If you are in any doubt about these conditions please contact us.

3. Employer contribution rates increase to 17% from 1 April 2010

The employers' contribution rate increases from 1st April 2010. Please ensure that your payroll software is updated after the March payroll run to reflect the new rate.

The contribution rate for the majority of employers will increase to 17% with effect from 1 April 2010. Any employing authorities who were admitted after 1 April 2007 will continue to pay a fixed contribution rate of 15.2% until 31st March 2011. A few employers have their own individual rates.

Details of your contribution rate are shown on pages 46 to 50 of the Actuarial Valuation Report. A copy is available on our website at http://www.nilgosc.org.uk/080314NILG_GN9_valuation_report.pdf.

The next triennial valuation of the fund takes place at 31 March 2010 and employer contribution rates will be set for the period from 1 April 2011.

4. Annual Returns

Annual Return submission

Employers are reminded that the deadline for submission of annual returns is strictly 30th May 2010. The specification for annual returns has changed from previous years to accommodate the tiered contribution bands. Please refer to Circular 09/2009 if you are unsure how to submit your annual return or need to check the specification. If your annual return is late you may incur additional actuarial costs.

Annual Return queries and responses

As it is valuation year please respond to queries as quickly as possible. NILGOSC has to submit all data for the actuarial valuation by the end of August so the turnaround time to resolve queries is limited. Any unresolved queries concerning changes in hours, backdated pay awards and pensionable pay will impact on the actuarial valuation and calculation of liabilities.

5. Statutory Guidance on ill-health retirements

The Department of Environment has issued statutory guidance on the ill-health retirement provisions. This statutory guidance is required under regulation 51 (3) of the Administration Regulations¹. The Department has stated that this guidance will be subject to review. This guidance should be forwarded to your internal occupational health team for information.

Please note the following points:

- Members must have one year's membership to qualify for ill-health retirement.
- Employing authorities must refer an employee to the Committee for ill-health assessment. An active employee can no longer refer themselves.
- If a member has had to reduce their hours due to their ill-health prior to ill-health retirement no account is taken of the reduction in hours. Please ensure that you have had anyone who is reducing their hours due to their ill-health medically examined by your occupational health doctor and have written documentation from the occupational health doctor recommending the reason for the reduction in hours and the medical condition which is present. If the member goes on to be assessed for ill-health retirement a copy of this recommendation should be forwarded to the Committee along with a request for ill-health retirement, form LGS22, and confirmation of the date of reduction in hours. Please note that the reduction in hours must be due to the same medical condition as led to the member being permanently incapable of doing their job.
- An application for ill-health retirement should be accompanied by copies of specialist medical advice or copies of hospital reports or notes from the member's GP. The Committee's panel of occupational health doctors aim to make a decision on ill-health retirement at the referral appointment. If these reports are not available the Committee's doctor may have to make a decision

¹ LGPS (Administration) Regulations (Northern Ireland) 2009

in the absence of the relevant reports or request further medical information thus delaying the process.

6. Policy Statements

In Circular 06/2009 employers were reminded that they needed to update their policy statements to reflect the changes to the Regulations. The 2009 regulations² required each employing authority to have updated, published **and forwarded a copy of its statement to NILGOSC before 31st July 2009. If you have not forwarded a revised policy statement you are in breach of the Scheme regulations.**

Please note that you cannot apply any of your discretions under the Regulations if you do not have a valid policy statement. You may wish to refer to Circular 06/2009, section 5.26 and Annex A, for the full list of current policy discretions.

NILGOSC's own policy statement is published on our website at <http://www.nilgosc.org.uk/Policy%20Statement%20on%20Employer%27s%20Discretions%20%28passed%2026%20May%2009%29.pdf> and you may wish to refer to this for the correct regulatory references. The NILGOSC policy is written for a small organisation and may not be appropriate in your circumstances.

If you require any information or help drafting your policy statement please email Pensions Development at pensionsdevelopment@nilgosc.org.uk.

7. Pension Contributions on Pay Arrears

Since the introduction of the new Scheme on 1 April 2009 many employers have sought guidance from us on the contributions which are due on arrears i.e. backdated pay awards going back many years.

The regulations do not specifically state how contributions should be deducted on arrears payments which relate to previous years. The Regulations simply state (Regulation 34 (4)) that an employer's contribution for any year is the common percentage for that year of the pay on which contributions have, during that year, been **paid** to the fund.....

In the absence of specific regulations NILGOSC asked the Department of Environment to provide statutory guidance on what employer and employee contribution rates should apply to arrears of pay going back over previous years. No formal guidance has been received to date. In Scotland the governing department has issued statutory guidance which states that both employee and employer current contribution levels apply to payment of arrears.

Therefore, NILGOSC has taken the flexible approach that contributions on arrears can be paid in one of the following ways:

Either

- a) Deducted at current employer and employee contributions rates; or

² LGPS (Administration) Regulations (Northern Ireland) 2009 – regulation 62

- b) Deducted at the rates which applied in the years to which the arrears relate plus interest (interest under the regulations is due at 1% above base rate on a day to day basis from the due date to the date of payment and compounded with three monthly rests). A breakdown of the calculation must be supplied to NILGOSC; or
- c) The impact on the fund of the non-investment of contributions over the period to which the arrears relate is actuarially assessed and then either invoiced or the strain cost levied on the relevant employer at the next actuarial valuation (the employer would also be charged for this actuarial calculation).

NILGOSC does not charge interest when arrears are paid for a backdated pay award which does not pre-date the last twelve months.

8. Flexible Retirement Update

Partial flexible retirement – the new Scheme introduced partial flexible retirement which is where a member could flexibly retire but only draw part of their accrued pension benefits. However, we are still awaiting Government Actuary's Department (GAD) guidance on this aspect of the new regulations and cannot implement any requests for partial flexible retirement in its absence. It seems likely that under partial flexible retirement all benefits accrued prior to 1 April 2009 will have to be drawn and partiality only applies to benefits accrued post 31 March 2009.

Administration of flexible retirement – When an employer consents to both a reduction in hours and/or grade and to the flexible retirement a Leavers' Form, LGS15, should be forwarded to NILGOSC. If the employee wishes to re-enter the Scheme an Admission Form, LGS1, should be completed and forwarded to NILGOSC. We will set up a new member record and issue a new pension reference number. For pension purposes this employment is treated separately from the previous employment.

9. Career Breaks

When a member goes on career break employee and employer contributions are due for the first 30 days' absence. You should complete form LGS34 to notify NILGOSC that the break has commenced along with a Leavers Form, LGS15. Please ensure that your employees are aware that they will be treated as a deferred member during a career break and any death or ill-health benefits which are applicable will be as for a deferred member.

On return the member may make an application within 30 days to cover the period of the break up to a maximum period of 36 months. If the employee elects to cover the period, the employer is also liable for employer contributions at the deemed pay for the period which is being covered. You should complete form LGS35 to advise NILGOSC of the return to work and the arrears of contributions due. NILGOSC will raise an invoice to the employer for their share of the arrears. The employee may repay their contributions over a period equal in length to their break.

10. High Earners Communication

The attached high earners communication is being sent out to the home addresses of all members with a pensionable pay exceeding £70,000 who may be affected by the recent changes in pensions' taxation.

11. Nominated co-habiting partners

The new Scheme³ provides for members to nominate a 'nominated cohabiting partner' of either the opposite or same sex, to receive a survivor's pension.

There are strict conditions which have to be met for a period of two years before the nomination is signed by both parties. The conditions are as follows:

- Both the Scheme member and their nominated cohabiting partner must be free to marry or form a civil partnership with each other, and
- They are both living together as if they were husband and wife, or civil partners, and
- Neither the Scheme member nor the nominated cohabiting partner are living with anyone else as if they were husband and wife, or civil partners, and
- Either the nominated cohabiting partner is financially dependent on the scheme member or they are both financially interdependent on each other.

To date we have received very few of these nominations despite an article in last year's Members News. If possible, please can you advise your members of the availability of these nomination forms in internal newsletters or employee communications. We are happy to provide appropriate text for the communication which is available on request from michelle.duffy@nilgosc.org.uk.

The nomination forms are available either directly from NILGOSC or can be downloaded from the NILGOSC website on <http://www.nilgosc.org.uk/nilgosc-ersguide/forms.htm>.

12. Remittance of AVC contributions should be directly to Prudential and reminder on '19 day rule' for payment of contributions

We have recently had a few instances of employers incorrectly paying their members' Prudential AVC contributions directly to NILGOSC. Please note that the payment of all Prudential AVCs should be directly to Prudential. Any AVCs payable to Equitable Life should continue to be forwarded to NILGOSC for onward transmission.

Each month Prudential notify us of some employers who have missed the deadline for remittance of monthly contributions. An employer must pay any contributions deducted from a members' pay within 19 days of the end of the month in which the contributions are deducted. An employer who fails to pay member contributions within 19 days may be subject to civil penalty under section 10 of the Pensions Act

³ LGPS (benefits, Membership and Contributions) Regulations (NI) 2009 – Regulation 25

1995. Please ensure that you have processes in place to meet this overriding legislative deadline for both Scheme and AVC contributions.

13. Recovery of VAT

NILGOSC is in the process of reviewing its means of recovering VAT. To allow us to assess all the options available to us it would be useful to know how many Scheme Employing Authorities can reclaim all or part of their VAT liability. We would therefore be grateful if you, or someone in your organisation, could send us a brief email simply telling us if you organisation can fully recover, partially recover, or not recover VAT. Please send your reply to finance@nilgosc.org.uk.

14. Forms – destroy stock of old forms

All NILGOSC forms have been updated and reprinted following the introduction of the new Scheme. Please destroy any stocks of old forms as these are no longer appropriate. The new forms are available on request or can be downloaded from our website on <http://www.nilgosc.org.uk/nilgosc-ersguide/forms.htm>.

15. Talking to your employees about pensions – helpful advice from The Pensions Regulator

The Pensions Regulator has produced a useful guide for employers entitled 'Talking to your Employees about Pensions'. Often employers have contacted us to query what they can say on pensions bearing in mind that neither employer nor NILGOSC is authorised to give financial advice. I have attached a copy of this guide and you may find it useful for the pension contacts within your organisation. Please note that the LGPS (NI) is a defined benefits scheme.

16. Employer Training

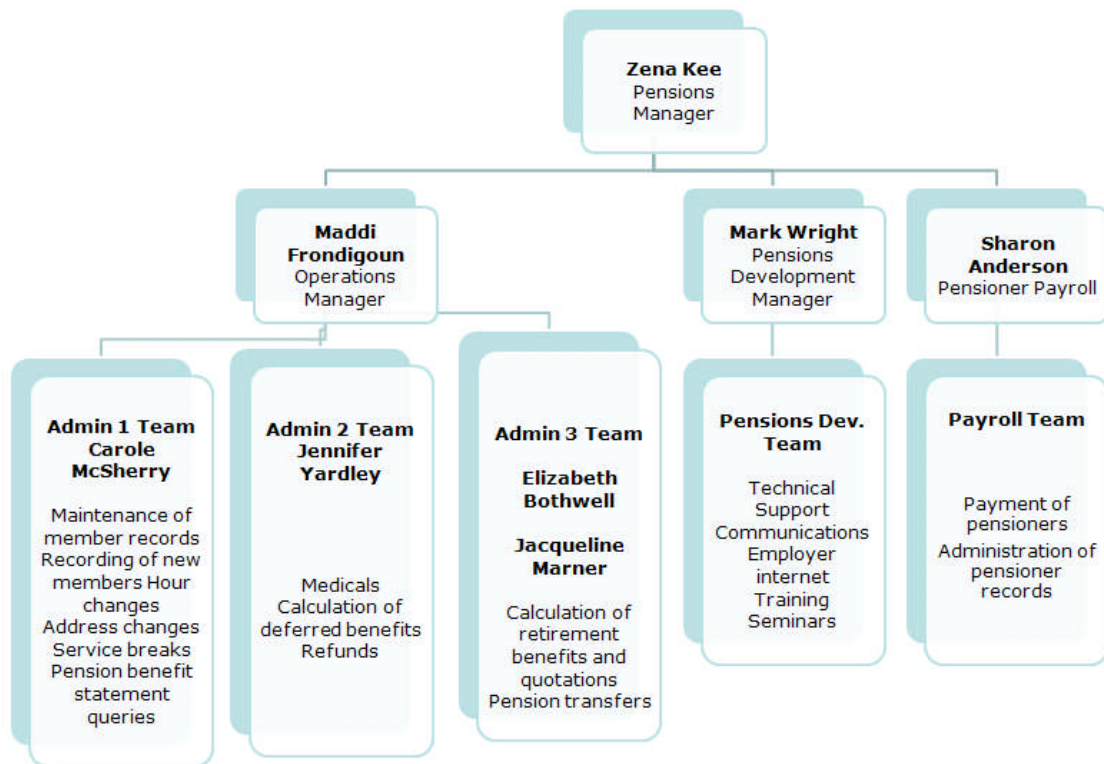
General Scheme Administration and Employer Discretion training is available from NILGOSC on request. We are also happy to provide member and employer training on Scheme Benefits. These training seminars can be requested by contacting Michelle Duffy at NILGOSC.

17. Contacts for circulars – update your contacts

Please let Michelle Duffy know (michelle.duffy@nilgosc.org.uk) if you wish to change or add any employees to the contacts list for circulars.

18. NILGOSC Pensions Administration Teams

Over the last year we have restructured Pensions Administration at NILGOSC and the team structures and responsibilities have changed as well as welcoming some new faces. As an overview, the current team managers, supervisors and a summary of responsibilities are as follows:



Finally, if you have any questions regarding the content of this circular, please contact either myself, Mark Wright, Richard Stevens or Christina Hanna.

Yours sincerely

Zena Kee

Zena Kee
Pensions Manager