NILGOSC
NORTHERN IRELAND LOCAL GOVERNMENT OFFICERS' SUPERANNUATION COMMITTEE

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To: Chief Executives
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Circular 3/2016
19 February 2016

At: All Employing Authorities

Dear Colleagues,

Assumed Pensionable Pay, End of Contracting out, Consultation on Reforms to Public Sector Exit Payments

This Circular has been issued to advise you of guidance from the Department of Environment on the calculation of Assumed Pensionable Pay (APP), to forward a letter from the Department of Work and Pensions on the End of Contracting Out and to highlight the current consultation on reforms to exit payments.

1. Assumed Pensionable Pay (APP)

1.1 Background

In the Career Average Revalued Earnings (CARE) Scheme pension builds up yearly by 1/49th of pensionable pay. When a member is on reduced pensionable pay usually due to illness or child-related leave they would build up a lower amount of pension. To overcome this problem the Scheme's regulations set out a calculation for Assumed Pensionable Pay (APP), which is used in certain circumstances instead of the reduced pensionable pay. NILGOSC's understanding is that APP ensures that a member builds up pension at the same rate as they would have had they been at work.

APP is used in the following circumstances:

- A member is on leave due to sickness or injury and is on reduced contractual pay or no pay;
- A member is on child-related leave; or
- A member is absent on reserve forces service leave;
- Upon ill-health retirement;
- In relation to benefits upon the death of an active member

In these periods of absence only the APP figure is used to calculate:

- The amount of pension built up in a member's pension account

The member pays contributions on the actual pay received and the employer pays contributions on the APP amount.
The annual amount of pensionable pay that NILGOSC is advised of on the annual return is a cumulative pensionable pay figure composed of both actual pay and APP

- The enhancement on ill-health retirement or death of an active member
- The amount of a death grant following the death of an active member

1.2 **The regulatory calculation of APP**

The regulations explicitly set out how APP should be calculated. The annual rate of APP is calculated by taking:

1. The pensionable pay the member received relating to that employment in the three months or twelve weeks in which the member received pay preceding the commencement of the pay period in which the circumstances applied
2. Less any irregular lump sum
3. Grossed up to an annual figure
4. Add back any regular lump sum received in the last 12 months.

If a member is retiring on ill-health or has died in service then an additional APP calculation needs to be performed using the three months or 12 weeks that precede the commencement of the pay period in which the retirement or death occurred. This additional calculation of APP is used to determine the amount of pension relating to the ill-health enhancement that applies on either death or ill-health retirement.

1.3 **The issues with APP**

The calculations for APP are complicated and it is now evident that in some circumstances these are producing inconsistent results with an impact on affected members' pension savings. The issues appear to be because of the wording in the regulations not covering all possible scenarios, particularly for changes in hours prior to going on reduced pay and for term-time and retainer fee staff where they may have been on unpaid leave during the previous 12 week or three month period.

1.4 **Departmental Guidance**

This matter was raised with the Department of Environment and it has now issued the attached letter setting out interim measures for the calculation of APP for any affected members.

1.5 **Action for employers**

Leavers during the year

If you have a member who is negatively affected by the above calculation of APP you should advise NILGOSC on the LGS15 Leaver's Form of the **notional weekly contractual rate of pay** prior to the date where pay reduced due to illness or child-related leave. This notional weekly contractual rate of pay should be recorded in Section 6a of the LGS15. The annual assumed pensionable pay entered in Section 6c should also be based on the notional weekly contractual rate of pay.

Members at the end of the year – submit a supplementary Report with Annual Returns for those members where APP is artificially low

To enable a pension amount to be credited to an ongoing member's pension account at 31 March 2016 which is not lower than intended, employers should provide NILGOSC with a notional annual CARE pay (Main or 50/50 section pay) for negatively affected APP members only. This **annual notional pay figure** is what the member would have received over the year based on their contractual hours, overtime, etc had they not been on reduced pay. This notional annual CARE pay will be applied to members' pension accounts and the CARE pension element shown on annual benefit statements will be based on this figure. Employer contributions should not be retrospectively adjusted to take account of the revised CARE pay figure.

NILGOSC should be advised of any members with a 'corrected' CARE pay figure by submitting a second pre-populated spreadsheet. These pre-populated spreadsheets will have been sent to you late February/ early March for your Annual Return Submission. You should make a copy of the received pre-populated sheet and only enter 'corrected' CARE pay details for members who are negatively affected. All other members should be removed from the spreadsheet. A comment should be entered recording that this is a notional annual CARE pay. If the member has had APP in both sections of the Scheme (Main and 50/50 sections) then the notional CARE pay should be corrected for both sections.

2. End of Contracting Out

2.1 In Circular 02/2016 I advised employers that DSD would be advising employers how to communicate the changes to National Insurance Contributions following the end of contracting out. We have now been asked by the Department of Finance and Personnel to forward the attached letter to all our Scheme employers as the Department of Work and Pensions was still not in a position to issue its letter to employers on the end of contracting-out.

2.2 Action for employers

NILGOSC will be issuing a general notification to its members later in the year to advise of the end of contracting out. However, you may wish to advise your employees of the increase in National Insurance contributions that will apply from April 2016. The actions for employers were set out in sections 3.2 and 3.3 of Circular 02/2016.

3. For information - HM Treasury Consultation on Reforms to Public Sector Exit Payments

HM Treasury issued a new consultation on reforms to public sector exit payments on 5 February 2016. HM Treasury intends that this policy will be UK–wide but it would be up to the Northern Ireland Executive to determine if and how it wanted to take forward the arrangements. In the past the Northern Ireland Assembly has taken account of submissions to the HM Treasury led consultation when considering whether to implement the policy in Northern Ireland. The consultation is available for information at https://www.gov.uk/government/consultations/further-consultation-on-limiting-public-sector-exit-payments and closes on 3 May 2016.

Please do not hesitate to contact the Pensions Development Team or myself if you have any queries.

Yours sincerely

Zena Kee

Zena Kee
Pensions Manager

Enclosures:
DOE letter dated 10 February 2016 – Guidance on Calculation of Assumed Pensionable Pay
DWP letter – End of Contracting Out

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Our reference:

10 February 2016

Dear Employer

Local Government Pension Scheme (Northern Ireland)
Guidance on calculation of Assumed Pensionable Pay – 2015/16

The Local Government Pension Scheme Regulations (Northern Ireland) 2014 ("the 2014 Regulations) give effect to the new pension scheme arrangements from 1 April 2015 based on career average re-valued earnings (CARE) for employees in local government and other admitted bodies. These arrangements introduced the concept of Assumed Pensionable Pay (APP) so that a member who is on reduced pay due to illness or on child-related leave can accrue pension at the same rate as they would, if they had been at work.

Regulation 23 of the 2014 Regulations provides for the calculation of APP and is in line with the APP provisions for the equivalent pension schemes for local government employees in England and Wales, and Scotland. The strict application of the APP calculation is however producing some results that are contrary to the policy intention of accruing pension during illness or child-related leave at a rate equivalent if the member had been at work. In quite a number of cases the calculation of APP produces a figure which is artificially low, and members would accrue a lower amount of pension. As a consequence the employer contributions to the scheme fund will also be lower.

The problem is apparent in cases where members have a change in their working hours or pensionable pay in the three month period (or 12 weeks in the case of weekly paid staff) prior to the period when APP is determined, for term time staff who are entitled to pay only during contracted weeks of the year (and receive none during the academic holidays), and employees on a retainer fee who receive a proportion of pay during periods in which they do not work.

The Department is proposing to review the APP section of the 2014 Regulations so that they reflect the correct policy intention. Given existing legislative priorities, it is anticipated that following consultation, any amending regulations which would clarify the APP calculation (and apply retrospectively to 1 April 2015), would not be made until later in 2016.

To address the concerns and issues in the current 2015/16 scheme year for immediate leavers and members accruing benefits based on APP, the Department advises that the following interim measures should be applied:

Immediate leavers 2015/16

To calculate APP for immediate leavers affected by the above, employers should advise NILGOSC of the notional weekly contractual rate of pay, prior to the date where pay is reduced due to illness or child-related leave. This should result in an APP figure which is consistent with the policy intention.

Members accruing benefits with APP

To enable pension benefit statements as at 31 March 2016 to include an accrued pension amount which is not lower than intended, employers are asked to provide a notional CARE pensionable pay for members who received APP and are affected by the above. This annual notional pay figure is what the member would have earned over the year based on their contractual hours, overtime etc. had they not been on reduced pay. This figure will be applied to pension accounts by NILGOSC.

Yours sincerely

PATRICK SMITH

Department for Work & Pensions

www.gov.uk

December 2015

Increase in National Insurance following the introduction of the New State Pension – April 2016

Background

You may have seen in the media that the new State Pension is being introduced on 6 April 2016 for those reaching State Pension age after that date. This reform means that the current, complicated, multi layered system of basic and additional State Pensions will ultimately be replaced with a clearer, single pension amount. In the long run, the new State Pension will mean that people will be clearer from a younger age about what they are likely to get from the state towards their overall pension income helping them to plan how best to save for their retirement.

As a consequence of the reforms, contracting-out of the additional State Pension for Defined Benefit schemes will come to an end. Contracting-out meant that employees and employers paid a lower National Insurance (NI) rate and gave up entitlement to additional State Pension in return for a broadly similar amount as part of their occupational pension. Currently most public sector defined benefit pension schemes are contracted-out. The main implication of this reform for scheme members is that from 6th April they will no longer receive the NI rebate. This will mean an increase in employee NI contributions of around 1.4% of earnings between the relevant NI thresholds, set each year by HM Treasury.

The reforms are being introduced on 6th April 2016 and employees will see the change in NI Contribution payments after that date.

Action

As a public service employer, who currently offers a contracted-out defined benefit pension scheme, your employees will be affected by this NI change. To assist you in communicating these changes to your employees we have a produced a number of products.

We have worked with departmental colleagues who lead on the main public sector pension schemes to ensure they are aware of these changes and the legal requirements relating to occupational pension schemes. Scheme administrators are required by law to notify members that their scheme is no longer contracted-out, but the requirement does not extend to include notifying them of the implication of this, i.e. the increase in NI contributions following the removal of the NI rebate.

It is worth confirming that this change will not impact upon an individual's occupational pension.

Indeed, the individual's occupational pension will in most cases include an amount that is equivalent to the additional State Pension they would have received if they had paid the higher standard rate of NI.

We suggest that you co-ordinate the communications you plan for your employees with your scheme administrators to ensure a joined up message is delivered to scheme members.

The materials attached include the things you need to know, plus some practical materials for you to use – or if you want to know more details then this pack will point you in the right direction. We've created emails, articles, posters, videos and images – and you're free to use them in whichever way suits you. We have included a factsheet specifically for public sector employees that you could use as a standalone product or you can use the messages in your own communication products to individuals. The key products are available on GOV.UK as part of the new State Pension toolkit at https://www.gov.uk/government/collections/state-pension-toolkit.

The recommendation from the Cabinet Office is that you begin communications to staff after the Autumn Statement, once NI bandings for 2016/2017 are announced.

If you have any feedback on the products please let us know by contacting state.pensioncomms@dwp.gsi.gov.uk.