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To: Salaries and Wages
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At: All Employing Authorities

Circular 08/2021
18 October 2021

Dear Colleagues,

Reminders about certain aspects of Scheme administration, McCloud templates, Salary Sacrifice for Shared Cost AVCs and Employer Training Seminars

This circular has been issued to clarify some administrative processes, remind employers to complete and return the McCloud data collection templates and to give advance notice of employer training sessions in November. The Employer Guide, HR and Payroll Guides have all recently been updated and are available on our [website](#).

There are a number of important actions you will be required to take on the back of this circular and a checklist is attached at Appendix 1 for your convenience.

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1. Employer obligations to enrol new employees

Employers are reminded that all new employees should be brought into the Scheme from their first day of employment, providing they have a contract of three months or more and are under age 75. There is no option not to join the Scheme, however, they may opt out. **By law an employer cannot encourage or induce employees to opt out.** A few employers operate the Scheme on a 'closed' basis and in those cases new employees will not be able to join the Scheme. These employers will have made other pension arrangements for their employees.

If a new employee has a contract of less than three months they may elect to join the Scheme from the start of the next pay period or be enrolled if they meet separate criteria under the Automatic Enrolment legislation. When an employee on a short-term contract has it extended beyond three months, the employer must bring them into the Scheme from the start of the next pay period after the extension is agreed or from the start of the first pay period after three months has been completed.

Please can employers check that all employees who have contracts for three months have been treated correctly and, if eligible, are either admitted to the Scheme or have specifically chosen to opt out. It is recommended that employers retain any opt out notices. Please contact us immediately if you have employees who should be in the Scheme.

2. Refunds – the difference between opting out and leaving employment

It is important that employers understand the distinction between opting out and leaving employment as who actions the refund differs depending on whether the member opted out or left employment within three months of joining the Scheme. A basic flowchart at Appendix 2 illustrates the difference.

'Opting out' is when a member continues in employment but opts out of the Scheme.

'Leaving employment' is when a member ceases to work for that employer.

Opting out within three months of joining

If an employee opts out of the Scheme within three months of first joining they are treated as though they had never joined the Scheme and are entitled to a refund of contributions via the employer's payroll. The employer should reduce the total contributions it pays over by the employee and employer contributions paid in respect of that person's membership when it next pays its monthly contributions to NILGOSC. The employer also completes the SS2 Opting out spreadsheet and forwards this to NILGOSC. These are the only refunds that the employer can action.

A flexibly retired member who subsequently opts out of the Scheme in their ongoing employment (on reduced hours or reduced grade) within three months of the date of retirement cannot be refunded by the employer and an LGS15 should be forwarded to NILGOSC.

Leaving employment within three months of joining

The employer advises NILGOSC that the member has left using an LGS15 Leaver's Form. The refund of contributions to the leaver, if applicable, can only be paid by NILGOSC and no refund of employer contributions is due.

Rules of both the Scheme and HMRC do not allow a refund in certain circumstances and, if one is inadvertently paid, it will extinguish all other Scheme benefits that a member may have e.g. wipe out a separate deferred benefit record. It is essential that employers are only refunding contributions where an employee has **opted out** within three months and **NOT** where the member has left employment within three months.

We are aware that there has been confusion between opting out and leaving within three months of joining. We have recently updated our website and employer guides to clarify that employers can only action refunds where the member has opted out within three months of joining.

Employers will need to review their processes to ensure that they are dealing with leavers within three months of joining correctly i.e. completing an LGS15 and forwarding to NILGOSC.

3. LGS15s

Contractual hours and weeks - the LGS15 Leaver's Form was amended in 2020 to include a section for employers to advise NILGOSC of all changes in contractual hours and weeks since 31 March 2015. This section is not being completed in many incoming LGS15 forms and NILGOSC staff are having to contact employers for the missing information. Please ensure that this information is provided where applicable.

Assumed pensionable pay (APP) - section 7 of the LGS15 was also amended to expand the information that employers needed to provide in respect of their calculations of assumed pensionable pay. Frequently the APP we are provided with has been calculated incorrectly resulting in NILGOSC staff having to contact employers for the missing information, recalculate the APP and in some cases issue invoices for the underpaid employee and employer contributions. As a reminder, it is **the employers' responsibility** to calculate APP accurately and the APP figure that is provided on the LGS15 will be used in the calculation of a member's pension. This additional administration is impacting on the level of service that NILGOSC can provide to its members so, going forward, we intend to use the figure provided on the LGS15 and advise members to contact their employer directly if they feel that the APP has been calculated incorrectly. NILGOSC will levy charges for any additional administration incurred because of incorrect information being provided by an employer concerned as set out in the Pension Administration Strategy.

Please ensure that your payroll software is programmed to calculate APP correctly and that LGS15s are being completed fully and accurately. If payroll or HR staff would benefit from some refresher training, please see upcoming employer training sessions detailed in section 6 or contact our Employer Liaison Officer, Ruth Benson for assistance.

4. McCloud Data Collection Templates

NILGOSC issued an employer circular in December 2020 (Circular 12/2020) regarding proposed changes to transitional protections in the LGPS (NI). This circular advised employers that we needed to collect historical contractual hours, weeks and service breaks from 1 April 2015 for all members who may have been affected by the McCloud ruling. The templates were issued early in 2021 with a requested **return date of 30 June 2021**. Many of these remain outstanding.

At that time, we advised employers that a second data collection template would be sent later in 2021 in respect of members who had transferred employers during the remedy period (1 April 2015 – 31 March 2022) and may have had earlier hours changes with former Scheme employers. These templates have now been issued.

Please ensure that any outstanding templates are completed and returned securely to NILGOSC no later than 31 December 2021. If you believe that you have no part-time hour changes/service break information to provide, please submit a nil return to datacollection@nilgosc.org.uk.

Any queries on these templates should be directed to Ruth Benson (ruth.benson@nilgosc.org.uk), Jacqueline Marner (Jacqueline.marner@nilgosc.org.uk), Carole McSherry (carole.mcsherry@nilgosc.org.uk) or Janet Wallace (janet.wallace@nilgosc.org.uk).

5. Salary Sacrifice for Shared Cost AVCs

We are aware that some Scheme employers have been considering offering SCAVCs under a salary sacrifice scheme. This is a matter for employers, however, they should ensure that the requirements of the regulations are met.

Provided the employer specifies in the employee's contract of employment that the employer contribution to the SCAVC is a pensionable emolument, then the pensionable pay is calculated on the pre salary sacrifice level of pay. Member and employer contributions and CARE pension build-up all continue to be based on the pre salary sacrifice level of pay. The final salary pay should also be calculated on the pre salary sacrifice level of pay. Employers will need to be careful that they remit the correct contributions to NILGOSC and complete annual returns and Leavers' Forms with the correct pre-salary sacrifice level of pays.

Any employer choosing to offer these types of arrangements should also amend their discretions policy to ensure that it meets the HMRC requirements.

Employers choosing to offer salary sacrifice shared cost AVC schemes must notify NILGOSC that they are doing so. They should also confirm whether the employer contribution is being paid under a salary sacrifice arrangement. They need to ensure the contracts of employment are amended appropriately and that their discretions policy has been updated. They also need to ensure that NILGOSC is provided with the pre-salary sacrifice pay in annual returns for both CARE pay and final salary pensionable pay.

6. Employer Training Seminars

Dates have been allocated for the next set of employer training seminars, which will be delivered remotely. A separate circular will follow with further information on how to register but, in the meantime, you may wish to note the following dates.

- Monday 22 November – Membership
- Tuesday 23 November – Leavers
- Wednesday 24 November – APP
- Thursday 25 November – Employer Discretions

If you have any questions regarding this circular, then please do not hesitate to contact either myself (zena.kee@nilgosc.org.uk) or any member of the Pensions Development Team.

Yours sincerely

Zena Kee

Head of Pensions Policy

Appendix 1 – Employer Checklist

No.	Action for employers	Tick when complete
1	<p>Enrolling new employees</p> <p>Check that all employees who have contracts for three months or more have been treated correctly and, if eligible, are either admitted to the Scheme or have specifically chosen to opt out. It is recommended that employers retain any opt out notices. Contact NILGOSC immediately if you have employees who should be in the Scheme.</p> <p>Remember to include member email addresses on the SS1 spreadsheet.</p>	
2	<p>Refunds – opting out versus leaving</p> <p>Review your processes to ensure that you are dealing with members leaving employment within three months of joining correctly (see flowcharts in Section 2).</p>	
3	<p>LGS15s</p> <p>Ensure that your payroll software is programmed to calculate APP correctly and that LGS15s are being completed fully and accurately. If payroll or HR staff would benefit from some refresher training, please see upcoming employer training sessions detailed in section 6 or contact our Employer Liaison Officer, Ruth Benson for assistance.</p>	
4	<p>McCloud Data Collection Templates</p> <p>Please ensure that any outstanding templates are completed and returned securely to NILGOSC no later than 31 December 2021.</p> <p>If you believe that you have no part time hour changes/service break information to provide, please submit a nil return to datacollection@nilgosc.org.uk.</p>	
5	<p>Salary Sacrifice for Shared Cost AVCs</p>	

No.	Action for employers	Tick when complete
	<p>Notify NILGOSC that you are offering a salary sacrifice shared cost AVC (SCAVC) schemes.</p> <p>Confirm whether the employer contribution to salary sacrifice SCAVC is being paid under a salary sacrifice arrangement.</p> <p>Ensure that contracts of employment are amended to state that the employer contribution to the SCAVC is a pensionable emolument.</p> <p>Update your discretions policy to cover contributing to a SCAVC.</p> <p>Ensure that the correct LGPS (NI) employee and employer contributions are paid over on the pre-salary sacrifice levels of pensionable pay.</p> <p>Ensure that the pre-salary sacrifice pay is provided in annual returns for CARE pay and final salary pensionable pay.</p>	
6	Note the dates of employer training seminars.	

Appendix 2 – Flowchart for opting out or leaving employment within 3 months

