

News

Summer

Welcome to this Summer edition of TP News, the Employer newsletter keeping you up-to-date with news from across the Teachers' Pension Scheme. We hope you will find the contents of this newsletter useful and informative and would welcome any feedback or comments.

In this issue we focus on:

- + Pension reform
- + Opting out
- + Partner benefits
- + Premature retirement

2011

please log on to www.teacherspensions.co.uk

Industrial Action

TP are currently processing the summer retirement applications for this year. Since submitting their application forms, we are aware that a number of members have taken industrial action. Any days where industrial action has been taken are **not** pensionable. Consequently members' service records need to be revised.

In early September TP will be issuing employers with electronic files listing those members whose last day of service is in July or August. The files will be sent via STU and should be returned in the same way. All you are required to do is indicate whether or not the member was absent due to industrial action.

Where you are completing retirement application forms for members retiring after 31 August 2011, please ensure that you note any days where the member was absent due to industrial action as 'days out without pay'.

Similarly if you are providing a service update for any reason, please remember that days where the member is absent due to industrial action must be recorded as days out without pay.

When you complete your service return next year, please ensure that you note all days where members have been absent due to industrial action as 'days out without pay'.

The Current Added Years provision where members could elect to cover absences due to industrial action are no longer available.



Please access STU on a weekly basis to see if you have forms from members waiting for authorisation.

Contact Points

STU Registration and Annual Return

Please note that for all STU or annual return queries you should either email TPSTU@teacherspensions.co.uk or telephone 0845 3003 756.

Reminder dates

Due Dates for TR17(a)s

For all employers who have a TR17(a) outstanding s the return dates are:

Non LA Employers: 30 September

LAs : 30 November.

Any queries should be either emailed to TPContributions@teacherspensions.co.uk or telephone Ann Botwright on 01325 745073 or Emma Drumme on 01325 745738 (mornings only)

Annual Return

Following the pilot exercise if you still have your annual returns of service and salary outstanding must be with TP no later than 31 August.

Pension Reform

TP have created 2 new pages on the TP website, one in the Member area and the other in the Employer area.

The pages are titled 'Scheme Reform'. More information about the changes it will be posted to these pages when it becomes available.

Opting Out

Recently there have been a number of retrospective opt out requests received where documentation has not been provided to show why the election was not made at the correct time.

Any request to retrospectively opt out going back more than three months must be accompanied by documentary evidence proving that the member did not wish to participate in the scheme.

The documentary evidence must have been provided to the employer at the commencement of the employment in question for it to be considered as appropriate evidence. Any documentation that is dated later than the requested opt out date will not be considered to be appropriate evidence.

Where a member decides to opt out of the TPS the election should be made using the secure on-line facility available on the website. Members should be encouraged to consider their position very carefully before deciding to opt out of the TPS and to recognise the benefits that will no longer be available to them. Member should be advised to read the fact sheet Leaving Pensionable Employment .



Please access STU on a weekly basis to see if you have forms from members waiting

Premature Retirement

You are not obliged to offer premature retirement benefits when a member's employment ceases on the grounds of redundancy or organisational efficiency. You can offer unreduced retirement benefits to teachers aged 55 or over at the date their employment ceases. You will be responsible for paying an element of the member's benefits.

The TPS will pay an actuarially reduced pension and lump sum and you make up the reduction so that the individual receives unreduced benefits for their lifetime. This amount is known as mandatory compensation and you are required to pay this for the member's lifetime.

Further information can be found in section 7 of the Employer Guide.

Retirement Conditions

The Spring Issue of TP News contained a section headed "Retirement Conditions". This indicated that as far as Age retirement was concerned, a token break in service on or after Normal Pension Age (NPA) e.g. a nominal break such as a day without pay was sufficient to trigger the payment of Age retirement benefits.

Following further consultation with the Department for Education, we can now confirm that for Age benefits to become payable, a member must have a genuine cessation of employment rather than a token break. A similar announcement has also been made on the LGE website in bulletin number 15 correcting LGE bulletin 13. <http://www.lge.gov.uk/lge/aio/12373676>

Communication to Members

The Pensions Ombudsman determination that related to a member of an employer's pension scheme.

In this case, a member was off sick for a lengthy period, during which Partner Benefits were introduced to the scheme. Communication of the change was made on the website, which the member was unable to access due to her absence. Annual benefit statements referred to the change, but only to advise "further news will follow", which was deemed to be incomplete communication.

The member subsequently died and whilst her wishes relating to her death grant were met – this was paid to her partner, he was informed that as she had not nominated him as her 'partner', the survivor pension would not be paid by the scheme. The partner brought an action against the employer for maladministration, which the Pensions Ombudsman upheld, determining that the employer should pay the survivor pension to him out of their funds, not those of the pension scheme.

The crux of the decision was that the employer was under a statutory obligation to communicate the change to members, i.e. to make sure members received the communication, not to simply make that knowledge available.

As this change was to death benefits and the member was on long term sick leave, the circumstances were key. Please take time to satisfy yourself that your members are fully informed including any on extended absence.

Partner Benefits & Death Grants

Please ensure that members are aware that if they wish their partner to receive a pension after the member's death it is necessary to complete a nomination form and submit it to TP. There is a qualifying period of 2 years service post 1 January 2007 before a partner pension can be paid, but subject to certain conditions, members can purchase cover for previous service.

In the event of a member's death, confirmation will be sought to ensure that the financial interdependency conditions are still satisfied before any benefits are paid. Partner nominations relate only to the person at the time of the nomination. If the relationship ceases and the member enters into another partnership a new nomination will be required.

Nominating a partner for a pension should not be confused with nominating someone to receive a death grant. A death grant, a separate benefit, will automatically be paid to a member's spouse or civil partner in the event of a member's death, unless they have nominated another person or persons to receive the death grant. Marriage or remarriage does not cancel a death grant nomination. If the member no longer wishes their nominee to receive the death grant they must revoke their election.

It is important that members are reminded on a regular basis to ensure that they keep both of these elections current otherwise there is a risk that benefits will not be paid in line with their wishes.

Workplace pension reform October 2012

separate, they must apply the duties separately in relation to each contract.

For the purposes of assessing the earnings of workers with multiple employments for the same employer, the payroll system will need to be instructed by the employer whether to aggregate the earnings or to treat them separately. This requirement is not affected by the requirement to aggregate for the purposes of National Insurance contributions. It does not necessarily follow that where an employer must aggregate earnings for the purposes of National Insurance they will also be obliged to do so under their pensions duties."

This will be a further matter for employers to investigate in readiness for the introduction of the Workplace Pension Reforms from 2012.

Definition of employer for Workplace Pension Reform purposes

A particular issue affecting Local Authorities (LA) in the TPS is the definition of "employer" contained in the Pensions Act 2008. The Pensions Act 2008 [section 88 (8)] however defines "Employer", as the person by whom the worker is employed.

Under the Teachers' Pensions Regulations 2010, the LA is treated as the employer for pension purposes. The LA retains responsibility for collating and submitting data to TP via the Secure Transfer Utility (STU).

There will be cases however, the contract of employment is not held with the LA but with the individual school. Where the school employs staff directly rather than the LA, it will be the school's responsibility under the legislation (in conjunction with any payroll provider they use) to ensure that non members are automatically enrolled into the TPS. The LA and the school directly employing teachers may well have different "staging dates".

Future consultation

In the run up to the changes in October 2012, the Department for Education will also be publishing a consultation on proposals regarding changes to the TPS so that it meets the requirements for Workplace Pension Reform. Further information on Workplace Pension Reform will follow in future issues of TP News.

You will be aware of our previous articles on the subject of Workplace Pension Reform. Chief executives of the largest employers should now be receiving correspondence from the Pensions Regulator (tPR) notifying them of the requirements.

Sources of information

The website of tPR is a valuable source of information and background on Workplace Pension Reform. The website provides information aimed at employers, members and advisors. The link to the home page is as follows:

www.thepensionsregulator.gov.uk

The website also provides guidance for software developers.

<http://www.thepensionsregulator.gov.uk/pensions-reform/software-developers.aspx>

The DWP has also published helpful information including their document headed "Automatic Enrolment and Workplace Pension Reform – the facts"

<http://www.dwp.gov.uk/docs/auto-enrol-and-wpr-the-facts.pdf>

Members in concurrent employment

The link to information for software developers covers a specific issue of relevance to employers with members in concurrent employment, two employments but with the same employer. This reads as follows:

"Where an employer has multiple contracts of employment with an individual worker, the employer must consider and, where appropriate, seek advice on whether the employment relationship is of a single employment with services being performed across each of the contracts. In such circumstances, the employer should aggregate the qualifying earnings for the totality of those employment contracts and all the duties apply only once to the worker (eg automatic enrolment, opt out etc).

If an employer is of the view that each of the employment contracts with an individual are wholly

Part-time Service

On 1 January 2007 automatic membership was introduced for all entrants to the TPS. This meant that any person taking up employment covered under Schedule 2 part 1 of the TP Regulations automatically joins the Scheme and employers are required to deduct pension contributions.

This change applied equally to people taking up full or part-time employment. If a person taking up employment does not want to join the Scheme they are required to formally opt out of the Scheme.

If a person was working part-time before 1 January 2007 and had not elected to join the Scheme, their position does not change unless they have a change in their employment which includes a change of contract. If their contract changes they automatically become a member of the TPS unless they formally opt out of the Scheme, e.g. a member working in a school that converts to Academy status.

If the person is working on a part-time basis and takes up an additional appointment then all their part-time employment is pensionable from the date of the new appointment and contributions must be deducted.

It is up to you as the employer to determine if there has been a change of contract.

New Calculator

The Annual Allowance Calculator is now available on the website. This can be accessed by employers, members and their advisors.

Please ensure any members who you think may be affected by the changes to the Annual Allowance are made aware of the calculator. The calculator is not intended to replace the need to seek financial advice but to provide an additional tool for members and employers.

Executive Heads

Queries have been raised by bodies acting on behalf of federations of academies set up under an umbrella Trust, asking whether executive head teachers overseeing a number of academies can be members of the TPS.

It is a long established position that the post of head teacher - as the academic head of the school - falls within the scope of 'teacher' for the purposes of the regulations. As the academic head, the person is covered under schedule 2 of regulations, even though the head teacher may not, as a norm, carry out any actual teaching duties.

Executive head teachers who occupy a mainly financial or administrative role would not be eligible for membership of the TPS. It is for each employer to determine the eligibility of the individual to membership of the TPS in accordance with the regulations. Please be aware however that should it come to light that an individual has been incorrectly placed into membership of the TPS, action will be taken to correct the position and the contributions refunded.

Academies

If you are an Academy or are considering becoming an Academy in the near future then you need to be aware that you are responsible for paying contributions to the TPS on behalf of your teachers, supplying data about your TPS members and providing information to these individuals about the TPS.

It is essential that you read the leaflet New Academies that is available on the website immediately. This can be found at www.teacherspensions.co.uk/employers/employers_academy.htm This will explain at a high level your role and responsibilities in relation to the TPS.