

Re-Enrolment and how it may affect you if you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014 or Enhanced Protection

From 1 April 2016 KCC (which includes all Maintained¹ Schools) will be re-enrolling all eligible staff who are not currently in a qualifying pension scheme. If you meet all of the following criteria:

- You earn over £10,000 per year
- You are aged 22 or over and
- You are under state pension age.

you will be enrolled into the LGPS² in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012 or Fixed Protection 2014 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the

¹ Community, Voluntary Controlled, Voluntary Aided, Foundation

² Or other Qualifying Pension Scheme such as Teachers' Pension Scheme

'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012 or Fixed Protection 2014 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012 or Fixed Protection 2014 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
- you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your benefits at 5 April 2006 as increased after then, in general terms, by the greater of 5% per annum, the increase in the cost of living or increases in your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Enhanced Protection
You join the LGPS ¹ from a different scheme (including from the LGPS ¹ in Scotland , Northern Ireland or Isle of Man)	n/a	Lost	lost	lost
You have a deferred benefit in the LGPS ¹ in E&W, re-join the LGPS ¹ in E&W and you do not aggregate benefits	n/a	Lost	lost	lost
You have a deferred benefit in the LGPS ¹ in E&W which includes pre 1.4.14 membership, re-join the LGPS ¹ in E&W and you aggregate benefits	if separate arrangement	Lost	lost	lost
You have a deferred benefit in the LGPS ¹ in E&W which includes pre 1.4.14 membership, re-join the LGPS ¹ in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS ¹ in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.				

¹Or other qualifying pension scheme such as Teachers' Pension Scheme