

## **WIRRAL COUNCIL**

### **PENSIONS COMMITTEE**

**23 MARCH 2010**

### **REPORT OF THE DIRECTOR OF FINANCE**

#### **LGPS REFORM UPDATE**

##### **1. EXECUTIVE SUMMARY**

- 1.1. This report informs Members of developments following the introduction of the revised LGPS on 1 April 2008 by the Department for Communities and Local Government (DCLG).

##### **2. BACKGROUND**

- 2.1 The Pensions Committee last considered progress in implementing the new regulations as part of the reform of the LGPS, on 13 January 2010 (Minute 83 refers).

###### **Increase to earliest retirement age**

- 2.2 The earliest non ill-health retirement age for those members who joined the Scheme prior to 1 October 2006 increases from age 50 to 55 with effect from 1 April 2010. Members who first joined the Scheme from 1 October 2006 have been subject to a minimum retirement age of 55 since they started.
- 2.3. This change will apply to staff under age 55 being made redundant or seeking voluntary or flexible retirement and to those seeking early payment of deferred benefits on compassionate grounds before age 55 where the award was made since 1 April 2008.
- 2.4. MPF has circulated details to employers setting out the important tax implications for individuals and potentially for employers of agreeing to release deferred benefits (other than on grounds of permanent ill health) from 6 April 2010 to Scheme members who have not attained age 55.
- 2.5. Although the LGPS Regulations continue to permit deferred benefits to be paid to certain protected groups from age 50 (where they were awarded prior to 1 April 2008), new payment cases from 6 April 2010 will be treated as "unauthorised payments" under HMRC tax rules resulting in significant tax liability on the member and possibly on MPF which will be recoverable from the employer.

- 2.6 I will be making representations that such protected cases eligible for payment of deferred benefits between age 50 and 55 under the LGPS regulations should not be treated as unauthorised payments or liable for such tax deductions.
- 2.7. HMRC would view the payment of benefits to such members as unauthorised payments if the Benefit Crystallisation Event (BCE) falls on or after 6 April 2010 and the benefit is paid on or after age 50 and before age 55 at the discretion of the former employer.
- 2.8. The LGE advice is that the LGPS Regulations permit an employer to pay such benefits at their discretion but, if they do so after 5 April 2010 before age 55 the payment may be an **unauthorised payment** attracting the relevant unauthorised payment tax charges. The scheme member, in deciding whether or not to apply for payment before age 55, would need to take this into account.

#### **Draft LGPS (Miscellaneous) Regulations 2010**

- 2.9 As reported at the last meeting of the Committee, on 29 December 2009 DCLG issued a set of amendment regulations to make a number of corrections to those which introduced the new scheme in April 2008.
- 2.10. A number of drafting errors were identified at the introduction of the Scheme regulations on 1 April 2008. Since that time several sets of amendment regulations have been issued by DCLG to attempt to correct various deficiencies in the legislation and specifically with the new ill health retirement provisions. The closing date for comments was 18 March 2010 and a technical response has been submitted to the DCLG.

#### **Draft LGPS (Amendment) Regulations 2010**

- 2.11. On 18 September 2009 DCLG issued draft amendment regulations for consultation on measures intended to comply with the Fair Deal for Staff Pensions for a small number of staff transferring from the Learning and Skills Council to Local Authorities on 1 April 2010. A technical response was submitted to DCLG by the closing date of 18 December 2009.
- 2.12. Following the recent consultation DCLG has now circulated a further letter dated 23 February 2010 and a further set of draft regulations (Appendix 1 attached) confirming that it intends to proceed with the original approach set out to deal with this matter.

#### **Councillors Pensions**

- 2.13. There is no further progress to report since the LGE Bulletin 64 (dated November 2009) which confirmed that DCLG intends to amend the scheme regulations to bring Councillors into the current scheme although there is no specific timeframe for the required consultation.

## **Future of the Scheme**

- 2.14. It has been reported that the Policy Review Group has been asked to consider a number of key issues relating to the future of the LGPS and its operation including:
- a. Whether the existing scheme; is fit for purpose? Does it have a long term future? Is it affordable in its present form or does it require minor tweaks around the edges to aid its long term future? Whether there is scope for reducing costs and improving efficiency through organisational aspects of the LGPS including greater partnership working and other forms of rationalisation involving funds working together more closely?.
  - b. Whether a more fundamental review of the Scheme is needed for the future; including further consideration of CARE, hybrid and Defined Contribution options?
- 2.15. It is not expected that any formal consultation exercise or decisions on such changes will be completed until after the general election.

## **3. FINANCIAL IMPLICATIONS**

- 3.1 The increase in the earliest non ill health retirement age from 50 to 55 will reduce potential early retirement strain costs for employers and bond requirements for admission bodies as potential unfunded pensions liabilities will be reduced.
- 3.2 Additional tax liabilities may fall on members and employers in respect of HMRC unauthorised payment charges in relation to release of deferred benefits from 6 April 2010 to members under age 55.

## **4. STAFFING IMPLICATIONS**

- 4.1. There are none directly arising from this report.

## **5. EQUAL OPPORTUNITY /EQUALITY IMPACT ASSESSMENT**

- 5.1. There are none arising from this report.

## **6. COMMUNITY SAFETY IMPLICATIONS**

- 6.1. There are none arising from this report.

## **7. HUMAN RIGHTS IMPLICATIONS**

- 7.1. There are none arising from this report.

**8. LOCAL AGENDA 21 IMPLICATIONS**

8.1. There are none arising from this report.

**9. PLANNING IMPLICATIONS**

9.1. There are none arising from this report.

**10. MEMBER SUPPORT IMPLICATIONS**

10.1. There are none arising from this report.

**11. BACKGROUND PAPERS**

11.1. The DCLG letter dated 23 February 2010.

**12. RECOMMENDATION**

12.1 That Members note the report.

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DIRECTOR OF FINANCE

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