WIRRAL COUNCIL

EMPLOYMENT AND APPOINTMENTS COMMITTEE

19 NOVEMBER 2007

REPORT OF THE DIRECTOR OF FINANCE

CONSULTATION ON EXTENSION OF 85 YEAR RULE PROTECTION

1. EXECUTIVE SUMMARY

1.1. This report informs Members of consultation carried out by the Department for Communities and Local Government (DCLG) to review the current provisions regarding the 85 year rule tapered protections between 2016 and 2020 for certain active members of the Pension Fund.

1.2 The Pensions Committee on 25 September 2007 approved the attached response (Appendix 1) to be submitted to the DCLG.

2. BACKGROUND

2.1. The Pensions Committee previously considered this matter on 2 July 2007.

2.2. In reply to a previous informal consultation paper MPF submitted a response supporting the proposal to extend full 85 year rule protection to members who would satisfy the rule and reach age 60 by 31 March 2020.

2.3. The present arrangements, which came into force on 1 October 2006, provide that:-

(i) all members of the scheme as at that date continue to accrue membership under the rule of 85 terms until 31 March 2008;

(ii) if a qualifying member is 60 by 31 March 2016 and would have satisfied the rule of 85, no actuarial reduction will apply should he choose to retire at that age; and

(ii) if a qualifying member is 60, would have satisfied the rule of 85 between 1 April 2016 and 31 March 2020 and he chooses to retire at that age, an actuarial reduction will apply on a tapered basis. (The actuarial reduction increases the later the person satisfies the 85 year rule).

2.4. At the time these protections were introduced, an objective justification for retaining a provision which had been confirmed by the Courts as discriminatory had to be made. This led to a protection for those within 10 years of age 60 at the time of the regulatory change, and the introduction of a tapered reduction in order to avoid the cliff-edge effects of earlier proposed levels of protections.

2.5 In its letter dated 5 July 2007 the DCLG has confirmed that any proposals to extend full “85 year rule” protection to 31 March 2020, must be provided from within the existing cost envelope. In the draft response attached I have confirmed that MPF believes that there is a viable method of funding the cost of extending the 85 year rule protections within the existing cost envelope, which can be justified, is equitable, and does not adversely affect those members without protection.

2.6 The required cost savings could be obtained from the re-introduction of a two year “vesting period” into the LGPS in England and Wales. That is a minimum membership requirement of 2 years service rather than the current 3 month minimum introduced from 1 April 2004. The estimated cost for the extension of 85 year rule protection to 2020 of 0.1% of payroll could be met from a return to allowing refunds of contributions to members who leave with less than 2 years membership.

2.7 The cost of reducing the vesting period from 2 years to 3 months from April 2004 was estimated by the Employers Organisation at 0.2% of payroll, thus even by making refunds optional for those leaving with up to 2 years membership and based on a 50% take up of the refund option, the required 0.1% saving could be achieved making extension of the 85 year rule protection affordable and sustainable.

2.8 Considerable savings in administration costs would also be obtained by reducing the large number of very small preserved benefit awards made to those currently leaving with very short service. The proposed change would also simplify the Regulations making them easier to administer and for members to understand.

2.9 The closing date for responses was 1 October 2007 and the response attached at Appendix 1 is consistent with the previous views expressed by the Pensions Committee on the 85 year rule protection.

2.10 MPF has communicated details of the latest proposals to employers and to Scheme members by publicising them on the website.

3. FINANCIAL IMPLICATIONS

3.1. The Actuary has confirmed that 0.1% of pensionable payroll (the smallest increase that he is able to make) is a reasonable estimate of the potential additional costs involved in agreeing to extend the 85 year rule protection in line with that already agreed in Scotland.

3.2. This cost could be met by the savings that would be made by the reintroduction of a 2 year vesting period, as still operated by the other public sector pension schemes and the LGPS in Scotland. The cost of moving from the former 2 year vesting period from 1 April 2004 was estimated as an additional 0.2% of pensionable pay and this took no account of the greater costs of administering an increased number of deferred benefits for short service members, who could previously opt to take a refund of their own contributions.

4. **STAFFING IMPLICATIONS**

4.1. There are none directly arising from this report.

5. **EQUAL OPPORTUNITY IMPLICATIONS**

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. **RECOMMENDATION**

11.1. That the report be noted.

IAN COLEMAN
DIRECTOR OF FINANCE

FNCE/243/07

APPENDIX 1

Ms N. Rochester
Communities & Local Government,
Zone 2/F7 Ashdown House,
123 Victoria Street,
London,
SW1 6DE

Our Ref: KG/85 Protection

Your Ref:

Direct Line: 0151 242 1354

Please ask for: Kevin Greenough

Date: 26 September 2007

Dear Nicola,

Local Government Pension Scheme

Rule of 85 Protections

I refer to the Department's letter dated 5 July 2007 on the proposal to extend the full "85 year rule" protection from 2016 to 2020 and submit the following comments on behalf of the Merseyside Pension Fund which is administered by Wirral Council.

The Merseyside Pension Fund has consistently argued for the rights of all existing active members to be able to retain rights to count membership towards the 85 year rule, with changes applied to future new starters only. Based on investigation of the membership of MPF the Authority believes that the costs of this should not be prohibitive in view of the limited number of members who could satisfy the 85 year rule on both age and membership grounds and who would be expected to retire in circumstances when the rule would be relevant.

MPF would therefore support the maximum extension of protection which is affordable and can be objectively justified. It therefore supports the proposed extension of full protection for those who reach age 60 and would satisfy the 85 year rule during the period 2016 to 2020, in the same way as has previously been agreed for local government employees in Scotland and it is understood is expected shortly to also be agreed for Northern Ireland.

In brief MPF believes that there is a viable method of funding the cost of extending the 85 year rule protections within the existing cost envelope, which can be justified, is equitable, and does not adversely affect those members without protection. MPF believes that the required cost savings could be obtained from the re-introduction of a two year vesting period into the LGPS in England and Wales.

The estimated cost for the extension of 85 year rule protection to 2020 of 0.1% of payroll can be met from a return to allowing refunds of contributions to members who leave with less than 2 years membership.

The cost of reducing the vesting period from 2 years to 3 months was estimated by the Employers Organisation at 0.2% of payroll, thus even by making refunds optional for those leaving with up to 2 years membership and based on a 50% take up of the refund option, the required 0.1% saving could be achieved making extension of 85 year rule protection affordable and sustainable.

MPF believes that considerable savings in administration costs would also be obtained by reducing the large number of very small preserved benefit awards made to those currently leaving with very short service.

The proposed change would also simplify the Regulations making them easier to administer and for members to understand.

The extension of full protection to 2020 would also assist recruitment by removing the cross border benefit discrepancy that would otherwise exist between local authorities in different parts of the United Kingdom.

Should you wish to discuss any of the items raised in this response do not hesitate to contact me.

Yours sincerely

Director of Finance