



## Pensions Committee

<b>Date:</b>	<b>Monday, 29 September 2008</b>
<b>Time:</b>	<b>6.00 pm</b>
<b>Venue:</b>	<b>Committee Room 3 - Wallasey Town Hall</b>

**Contact Officer:** Trevor Brassey  
**Tel:** 0151 691 8492  
**e-mail:** [trevorbrassey@wirral.gov.uk](mailto:trevorbrassey@wirral.gov.uk)  
**Website:** <http://www.wirral.gov.uk>

---

## AGENDA

### PENSIONS COMMITTEE BRIEFING

**Please note that a briefing will be held in Committee Room 3 at 16.30.**

**Sandwiches will be served in the committee room during the briefing.**

**1. MINUTES (Pages 1 - 8)**

To receive the minutes of the meeting held on 24 June 2008, which were received or approved by the Council.

**2. DECLARATIONS OF INTEREST**

Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

**3. MERSEYSIDE PENSION FUND - AUDITED ACCOUNTS FOR THE YEAR ENDED 31 MARCH 2008 (Pages 9 - 22)**

**4. ANNUAL GOVERNANCE OF ACCOUNTS (Pages 23 - 42)**

**5. LGPS REFORM UPDATE (Pages 43 - 50)**

6. **ILL HEALTH RETIREMENT REGULATIONS UPDATE (Pages 51 - 100)**
7. **GOVERNANCE COMPLIANCE (Pages 101 - 128)**
8. **EMPLOYER REPRESENTATION ON PENSIONS COMMITTEE (Pages 129 - 132)**
9. **ELECTRONIC DOCUMENT MANAGEMENT AND WORKFLOW SYSTEM (Pages 133 - 134)**
10. **LOCAL GOVERNMENT CHRONICLE AWARDS 2008 (Pages 135 - 136)**
11. **ANNUAL EMPLOYERS CONFERENCE (Pages 137 - 140)**
12. **ATTENDANCE BY THE CHAIR AT LAPFF CONFERENCE (Pages 141 - 142)**
13. **EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.
14. **PENSIONS ADMINISTRATION INFORMATION TECHNOLOGY SYSTEM (Pages 143 - 146)**
15. **ADMISSION BODY APPLICATION - DEAFABILITY PRODUCTIONS (Pages 147 - 148)**
16. **REFURBISHMENT OF CASTLE CHAMBERS, LIVERPOOL (Pages 149 - 152)**
17. **CUNARD BUILDING , LIVERPOOL - PART LOWER GROUND FLOOR (Pages 153 - 156)**
18. **CUNARD BUILDING LIVERPOOL - CONSERVATION MANAGEMENT PLAN (CMP) (Pages 157 - 158)**
19. **MINUTES OF THE INVESTMENT MONITORING WORKING PARTY HELD 10 SEPTEMBER 2008 (Pages 159 - 168)**
20. **ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR**
21. **ADMISSION BODY APPLICATION - CAPITA SYMONDS (Pages 169 - 170)**
22. **ADMISSION BODY APPLICATION - ARVATO GOVERNMENT SERVICES (SEFTON) (Pages 171 - 174)**



This page is intentionally left blank

## Pensions Committee

24 June 2008

<u>Present:</u>	Councillor	Ann McLachlan (Chair)	
	Councillors	George Davies R K Moon H Smith	F M Doyle S L Rowlands G C J Watt
<u>Deputies</u>	Councillors	J Hale	A Taylor
<u>Co-opted members</u>	Councillors	Anne Ibbs (Sefton) N Keats (Knowsley) G Pearl (St Helens)	
<u>Apologies</u>		Jayne Brown (Non District Council Employers)	

### 1 MINUTES

The Acting Monitoring Officer and Proper Officer submitted the minutes of the meeting held 31 March 2008 which were received by Council on 21 April 2008.

**Resolved - That the minutes be received.**

### 2 DECLARATIONS OF INTEREST

Members were asked to consider whether they had any personal or prejudicial interests in connection with any item(s) on the agenda and, if so, to declare them and state what they were.

No declarations were made.

### 3 APPOINTMENT OF VICE-CHAIR

The Pensions Committee was requested to appoint a vice chair.

**Resolved - That Councillor Harry Smith be appointed vice chair of Pensions Committee.**

### 4 AUDIT PLAN

Mike Thomas, District Auditor gave a detailed presentation to the committee on the Audit Plan 2008/09.

## PENSIONS COMMITTEE - 24 JUNE 2008

The Director of Finance further submitted a report informing Members of the proposed planning arrangements underlying the statutory audit by the Audit Commission for the year 2008/09. He submitted a copy of the detailed plan prepared by the Audit Commission as an appendix to his report.

### **Resolved-**

- 1. That the District Auditor be thanked for his presentation.**
- 2. That the report and plan be noted.**

### **5 MERSEYSIDE PENSION FUND ACCOUNTS: YEAR ENDED 31 MARCH 2008**

The Director of Finance submitted a report and presented the accounts and financial statements which would in due course be contained in the Annual Report of Merseyside Pension Fund 2007/2008.

The accounts were required to be approved by the Pensions Committee prior to presentation to the Audit Commission.

**Resolved - That the accounts and financial statements of Merseyside Pension Fund for the year ended 31 March 2008 be approved.**

### **6 ISSUES FACING MERSEYSIDE PENSION FUND**

The Director of Finance submitted a report informing Members of the principal issues facing Merseyside Pension Fund over the next twelve months.

**Resolved - That the report be noted.**

### **7 LGPS REFORM UPDATE**

The Director of Finance submitted a report informing Members of progress with the production of regulations by the Department for Communities and Local Government (DCLG) in connection with the introduction of the revised LGPS from 1 April 2008.

**Resolved - That the report be noted.**

### **8 INVESTMENT PERFORMANCE 2007 - 2008**

The Director of Finance submitted a report outlining the investment performance of Merseyside Pension Fund for the year ended 31 March 2008 as reported by the WM Company.

PENSIONS COMMITTEE - 24 JUNE 2008

**Resolved** - That the investment performance of the Fund in the year ended March 2008 be noted.

9 **ILL HEALTH REGULATIONS**

The Director of Finance submitted a report informing Members of the latest information on ill health arrangements issued by the Department for Communities and Local Government (DCLG) on 16 and 22 April 2008.

**Resolved** - That the report be noted.

10 **HM TREASURY CONSULTATION: UPDATING THE MYNERS PRINCIPLES**

The Director of Finance submitted a report informing Members of a consultation paper received from HM Treasury regarding proposals to update the Myners principles and develop a comprehensive suite of authoritative best practice tools giving further assistance for pension fund trustees to improve investment decision-making and governance.

**Resolved** - That the response submitted to the consultation be noted.

11 **FUTURE COST SHARING IN THE LGPS**

The Director of Finance submitted a report informing Members of a response submitted to the Department for Communities and Local Government (DCLG) to the recent Consultation paper "Sustaining The Local Government Pension Scheme in England and Wales."

**Resolved** - That the report be noted.

12 **REPRESENTATION ON OUTSIDE BODIES**

The Director of Finance submitted a report requesting Pensions Committee to review positions held by Elected Members on external bodies on behalf of Merseyside Pension Fund.

**Resolved** -

**1. That the resignation of former Councillor Susan Brown from the Executive of LAPFF and from the IIGCC be noted.**

**2. That the nomination of Councillor Ann McLachlan for election to the Executive of LAPFF be confirmed.**

## PENSIONS COMMITTEE - 24 JUNE 2008

### 13 **BANK SIGNATORIES**

The Director of Finance submitted a report seeking approval to amend the personnel nominated on the existing bank mandates with Royal Bank of Scotland and State Street, the Fund's Global Custodian, and to amend the limit at which an MPF cheque needs a second signature.

#### **Resolved -**

**1. That the Royal Bank of Scotland, Liverpool, and State Street be authorised to accept cheques and other instructions on behalf of MPF signed in accordance with existing mandates by the following:-**

**Director of Finance Ian E. Coleman**

**Deputy Director of Finance David L. H. Smith**

**Head of IT Services John O. Carruthers**

**Head of Revenues, Benefits**

**and Customer Services Malcolm J. Flanagan**

**Head of Financial Services Thomas W. Sault**

**Head of Support Services Stephen J Rowley**

**Head of Change Jacqueline Roberts**

**Deputy Head of Pension Fund Peter G. Mawdsley**

**Financial Controller Gerard F. Moore**

**2. That the value at which MPF cheques require a second signature is increased from £5,000 to £10,000.**

### 14 **JULY TRAINING EVENT**

The Director of Finance submitted a report reminding Members of the training event at the Cunard Building arranged for 1 July 2008.

**Resolved - That the report be noted.**



## PENSIONS COMMITTEE - 24 JUNE 2008

### 15 THE LGPS TRUSTEES CONFERENCE

The Director of Finance submitted a report requesting that Pensions Committee consider attendance for members at the LGPS trustees conference organised by the Local Government Employers to be held in Cardiff on 23 and 24 October 2008.

**Resolved -**

**1. That members submit their intention to attend the conference to the Director of Finance.**

**2. That the matter of attendance for Wirral members be submitted to Cabinet as an approved duty.**

### 15 LOCAL GOVERNMENT CHRONICLE INVESTMENT CONFERENCE

The Director of Finance submitted a report requesting Pensions Committee to consider if it wished to be represented at the Local Government Chronicle (LGC) Investment Conference to be held in Newport on 3 to 5 September 2008.

**Resolved -**

**1. That Councillors; Ann McLachlan (Chair), Bill Duffey(Spokesperson) and Tom Harney(Spokesperson) be nominated to attend the conference.**

**2. That the matter of attendance be referred to Cabinet as an approved duty.**

### 16 TREASURY MANAGEMENT ANNUAL REPORT

The Director of Finance submitted his annual report on Treasury Management for the 2007/08 financial year which complies with the reporting requirements of the Code of Practice for Treasury Management in Local Authorities.

**Resolved - That the report be noted.**

### 17 EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC

Resolved - That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act.

PENSIONS COMMITTEE - 24 JUNE 2008

18 **PRIVATE EQUITY STRATEGY 2008-2011**

The Director of Finance submitted a report recommending that Members note an investment programme for private equity for the period 2008-2011.

**Resolved** -

**1. That Members note the Private Equity programme and that it is subject to changes in circumstance.**

**2. That Officers continue to report progress on private equity programme to IMWP, quarterly, and Pensions Committee on an annual basis.**

19 **ADMISSION BODY APPLICATION – TAYLOR SHAW CATERING, TOWNFIELD PRIMARY SCHOOL, OXTON, BIRKENHEAD**

The Director of Finance submitted a report informing Members of a decision taken under delegated powers, to approve the application received from Taylor Shaw Catering for admission to the Merseyside Pension Fund. He reported that the Company was a contractor which took on the catering services at Townfield Primary School, Oxtton, Birkenhead with effect from 1 April 2007.

**Resolved** - That the approval of the application for admission body status, received from Taylor Shaw Catering, be noted

20 **ADMISSION BODY APPLICATION – LIBERATA (UK)**

The Director of Finance submitted a report informing Members of a decision taken under delegated powers, to approve the application received from Liberata (UK) for admission to the Merseyside Pension Fund. The Company was a contractor which took on the Local Government Association financial, HR, facilities management and print and design services, with effect from 1 May 2008.

**Resolved** - That Members the approval of the application for admission body status, received from Liberata (UK) be noted.

21 **ADMISSION BODY APPLICATION – LIVERPOOL VISION.**

The Director of Finance submitted a report informing Members of a decision taken under delegated powers, to approve the application received from Liverpool Vision, for admission to the Merseyside Pension Fund. The newly formed Company had taken over provision of services from Liverpool City Council and from the existing Liverpool Vision admission body, with effect from 1 May 2008

**Resolved** - That the approval of the application for admission body status, received from Liverpool Vision be noted.

PENSIONS COMMITTEE - 24 JUNE 2008

22 **REFURBISHMENT AT 135/141 CANNON STREET, LONDON**

The Director of Finance submitted a report requesting acceptance by Pensions Committee of the second lowest tender in respect of reinstatement, repair and redecoration work to a property in London which is owned by MPF as part of the direct property investment portfolio. The tendering exercise had been conducted on behalf of MPF by CB Richard Ellis (CBRE), property managing agents, who were recommending acceptance of the second lowest tender.

**Resolved - That the second lowest tender for refurbishment at 135/141 Cannon Street, London be accepted.**

23 **REFURBISHMENT - CUNARD BUILDING, LIVERPOOL**

The Director of Finance submitted a report informing Pensions Committee of the outcome of the recent tendering exercise in respect of reinstatement, repair and redecoration work to the Cunard Building Liverpool which is owned by MPF as part of the direct property investment portfolio. The tendering exercise was conducted on behalf of MPF by CB Richard Ellis (CBRE), property managing agents.

**Resolved - That acceptance of the lowest tender in the sum of £358,356 plus VAT from Jennor (UK) for refurbishment at the Cunard Building, Liverpool be noted.**

24 **MINUTES OF THE INVESTMENT MONITORING WORKING PARTY – 16 APRIL 2008 AND 4 JUNE 2008**

The Director of Finance submitted the minutes of the Investment Monitoring Working Party meetings held 16 April 2008 and 4 June 2008.

**Resolved - That the minutes be agreed.**

25 **MANAGEMENT OF EXTERNAL ACTIVE UK EQUITIES**

The Director of Finance submitted a report informing Members of the progress of the procurement of external active investment managers for UK equities.

**Resolved - That the tender assessment procedure be agreed.**

26 **MANAGEMENT OF EXTERNAL ACTIVE EUROPEAN EQUITIES**

The Director of Finance submitted a report informing Members of the progress of the procurement of external active investment managers for European equities.

**Resolved - That the tender assessment procedure be agreed.**

PENSIONS COMMITTEE - 24 JUNE 2008

27 **WESTMINSTER COUNCIL SHARED SERVICES**

The Director of Finance reported that he had withdrawn this report from the agenda.

28 **REFURBISHMENT AT CASTLE CHAMBERS BUILDING LIVERPOOL**

The Director of Finance submitted a report updating Members regarding three separate tender exercises in respect of reinstatement and improvement works at Castle Chambers, Liverpool, which is both owned and occupied by MPF as part of the direct property investment portfolio. He reported that two tender processes were now complete, and appropriate approval was being sought from the Pensions Committee.

He reported that the tendering exercises were being conducted on behalf of Merseyside Pension Fund by CB Richard Ellis (CBRE), property managing agents.

**Resolved -**

**1. That the the lowest tender of £1,327,761.50 plus VAT from Morris and Spottiswood for internal refurbishment of Castle Chambers Liverpool be accepted.**

**2. That the acceptance of the lowest tender of £133,113.55 plus VAT from Rubax Lift for Lift refurbishment be noted.**

**3. That the Chair of Pensions Committee be authorized to accept the tender for the windows installation which is expected to be received shortly.**

29 **CHANGE OF START TIME FOR THE PENSIONS COMMITTEE**

At its last meeting a number of members recommended that Pensions Committee should commence at 6pm as an alternative to the current start time which is 6.15pm.

**Resolved -**

**1. That all briefings for Pensions Committee commence at 16.30pm.**

**2. That Pensions Committee commence at 18.00pm for all future meetings.**

## WIRRAL COUNCIL

## PENSIONS COMMITTEE

29 SEPTEMBER 2008

## REPORT OF THE DIRECTOR OF FINANCE

### MERSEYSIDE PENSION FUND: AUDITED ACCOUNTS FOR THE YEAR ENDED 31 MARCH 2008

#### 1. EXECUTIVE SUMMARY

- 1.1 This report presents the final audited accounts for Merseyside Pension Fund for the year ended 31 March 2008.

#### 2. FINANCIAL IMPLICATIONS

- 2.1 On 24 June 2008, the Pensions Committee formally approved the accounts (Minute 5 refers) prior to their submission to the Audit Commission, who undertook an audit of the accounts and will now report back to this meeting of the Pensions Committee.
- 2.2 Following the audit, the accounts have been amended, and are attached as an appendix. The net assets of MPF have increased from £4,253.945 million to £4,255.332 million. This reflects a number of changes, detailed below, which reflect either errors in the original accounts or adjustments in the light of recently-received information:
- Accrued investment income has reduced by a net £477k, representing one internal and one external error in calculating accrued interest
  - The investment valuation of externally managed equities has increased by a net £118k, representing two adjustments, -£748k and +£866k. These included timing and currency differences during the asset re-allocation process which crossed the end of the financial year.
  - A reduction in the valuation of an internally managed alternative asset of £610k, as a recently received valuation necessitated a change to the valuation previously shown
  - The inclusion of an accrual of £2,357k, which represents two bulk transfers of members into MPF. At the time the draft accounts were approved, the amounts due had neither been actuarially quantified nor paid, and were excluded. The amounts due are now known, so an accurate accrual has now been included.

- 2.3 Two amendments have affected the analysis but have no impact on the overall value of the Fund, as follows:
- a re-classification of £1.937m contribution income between employees and employers following receipt of more recent information
  - the exclusion of a previous rent deposit account of £12k now closed

- 2.4 Two notes to the accounts have been amended or added as follows:

Note 9: to indicate that the high level of money due and from stockbrokers was a reflection of the Asset Reallocation following the Triennial Valuation of March 2008. This involved purchases and sales of stock that had not settled as at 31 March 2008. These covered transfers of stock both within and between fund managers.

Note 10: amended to reflect £26m of commitments omitted from the original figure.

- 2.5 In the light of these changes, the annual closure of accounts programme is being modified in three areas so as to improve the arrangements regarding synchronising with the Statement of Recommended Practice (SORP) requirements, identification of future bulk transfers, and better monitoring of commitments to private equity.

- 2.6 The accounts as now shown will form the basis of the Annual Report for the year ended 31 March 2008.

### 3. **STAFFING IMPLICATIONS**

- 3.1 There are no implications as a result of this report.

### 4. **EQUAL OPPORTUNITY IMPLICATIONS**

- 4.1 There are none arising directly from this report.

### 5. **HUMAN RIGHTS IMPLICATIONS**

- 5.1 There are none arising directly from this report.

### 6. **COMMUNITY SAFETY IMPLICATIONS**

- 6.1 There are no specific implications arising from this report.

### 7. **LOCAL MEMBER SUPPORT IMPLICATIONS**

- 7.1 There are no specific implications for any Member or Ward.

8. **LOCAL AGENDA 21 IMPLICATIONS**

8.1 There are no specific implications arising from this report.

9. **PLANNING IMPLICATIONS**

9.1 There are no specific implications arising from this report.

10. **BACKGROUND PAPERS**

10.1 Pensions Committee 24 June 2008 "Pension Fund Accounts for Year Ended 31 March 2008."

11. **RECOMMENDATION**

11.1 That the Committee receives the audited accounts for the year ended 31 March 2008.

IAN COLEMAN  
DIRECTOR OF FINANCE

FNCE/221/08

This page is intentionally left blank



## FINANCIAL STATEMENTS

### FUND ACCOUNT

For the year ended 31 March 2008

	Note	2008 £000	2007 £000
<b>Contributions and Benefits</b>			
Contributions receivable	3	216,773	200,837
Transfers in		<u>21,168</u>	<u>16,353</u>
		<u>237,941</u>	<u>217,190</u>
Benefits payable	4	195,130	185,051
Leavers	5	13,764	11,754
Administration Expenses		<u>3,348</u>	<u>3,740</u>
		<u>212,242</u>	<u>200,545</u>
<b>Net additions from dealings with members</b>		<u>25,699</u>	<u>16,645</u>
<b>Return on Investments</b>			
Investment income	6	71,505	61,718
Change in market value of investments	7	-137,458	187,559
Exchange		-430	-1,874
Investment Management Expenses	8	<u>-4,961</u>	<u>-4,604</u>
<b>Net return on Investments</b>		<u>-71,344</u>	<u>242,799</u>
<b>Net increase (- decrease) in the Fund during the year</b>		<b>-45,645</b>	<b>259,444</b>
Net Assets of the Fund at start of year		<b>4,300,977</b>	4,041,533
<b>Net Assets of the Fund at end of year</b>		<u><b>4,255,332</b></u>	<u>4,300,977</u>

### NET ASSETS STATEMENT AS AT 31 MARCH 2008

	Note	2008 £000	2007 £000
<b>Investments</b>			
Fixed Interest Securities	7	0	0
Index-linked Securities		0	0
Other Investments		216,073	137,150
Equities		1,124,734	1,077,743
Managed or Unitised Funds		2,434,630	2,589,491
Properties		295,350	355,475
Short Term Deposits		100,778	116,573
		<u>4,171,565</u>	<u>4,276,432</u>
<b>Other Assets and Liabilities</b>	9	<b>83,767</b>	<b>24,545</b>
<b>Net Assets of the Fund as at 31 March 2008</b>		<u><b>4,255,332</b></u>	<u>4,300,977</u>

This page is intentionally left blank

## NOTES TO THE ACCOUNTS

### 1 **GENERAL**

Although the Scheme is exempt from the requirements of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996, the financial statements have been prepared in accordance with these regulations and with the guidelines set out in the Statement of Recommended Practice, Financial Reports of Pension Schemes (the SORP) November 2002.

The financial statements record the transactions of the Scheme during the year and summarise the net assets at the disposal of the Managers at the end of the financial year. They do not take account of obligations to pay pensions and benefits which fall due after the end of Scheme year. The actuarial position of the Scheme, which does take account of such obligations, is dealt with in the statement by the Actuary on pages 00 to 00 and these financial statements should be read in conjunction with it.

### 2 **ACCOUNTING POLICIES**

#### \* **Basis of Preparation**

The financial statements are prepared in accordance with applicable UK accounting standards and with the guidelines set out in the Statement of Recommended Practice, Financial Reports of Pension Schemes.

#### \* **Valuation of Investments**

Investments are stated at market value. For this purpose unlisted investments are included at manager's valuation and properties at professional valuation. For listed securities the stock exchange values are used. Properties have been valued independently by Colliers Erdman Lewis, Chartered Surveyors as at 31 March 2008.

#### \* **Translation of foreign currencies**

Assets and liabilities in foreign currencies are translated into sterling at rates ruling at the year end. Foreign income received during the year is translated at the rate ruling at the date of receipt. All resulting exchange adjustments are included in the revenue account.

#### \* **Investment income**

Interest on fixed interest stocks and on short term deposits has been accounted for on an accruals basis. Income from equities is accounted for when the related investment is quoted "ex-dividend".

#### \* **Rental income**

Rental income from properties is taken into account by reference to the periods to which the rents relate and is shown net of related expenses. The Fund accrues rent up to 24 March each year. Rent received on the Quarter Day, 25 March, is accounted for in full in the following year.

#### \* **Contributions and benefits**

Contributions are accounted for on an accruals basis. Benefits payable represent the benefits paid during the financial year and include an estimated accrual for lump-sum benefits outstanding as at the year end.

#### \* **Transfers to other schemes**

Transfer payments relate to those early leavers whose transfers have been paid during the year plus an accrual for future payments in respect of members moving their service to other schemes under bulk transfer arrangements.

#### \* **Investment Management Expenses**

In accordance with the SORP, costs in respect of the internal investment team are classified as investment management expenses rather than as administrative expenses.

This page is intentionally left blank

		<u>2008</u> <u>£'000</u>	<u>2007</u> <u>£'000</u>
<b>3</b>	<b>CONTRIBUTIONS RECEIVABLE</b>		
	<b>Employers</b>		
	Normal	152,576	137,630
	Early retirement funding	12,463	12,745
	<b>Employees</b>		
	Normal	51,734	50,462
		<u>216,773</u>	<u>200,837</u>
	relating to:		
	Administering Authority	32,018	28,664
	Statutory Bodies	158,507	149,223
	Admission Bodies	26,248	22,950
		<u>216,773</u>	<u>200,837</u>
<b>4</b>	<b>BENEFITS PAYABLE</b>		
	Pensions	164,286	157,286
	Lump sum retiring allowances	28,885	25,388
	Lump sum death benefits	1,959	2,377
		<u>195,130</u>	<u>185,051</u>
	relating to:		
	Administering Authority	28,008	26,715
	Statutory Bodies	145,569	140,205
	Admission Bodies	21,553	18,131
		<u>195,130</u>	<u>185,051</u>
<b>5</b>	<b>PAYMENTS TO AND ON ACCOUNT OF LEAVERS</b>		
	Refunds to members leaving service	39	62
	Payment for members joining state scheme	-9	-23
	Individual transfers to other schemes	13,734	11,715
		<u>13,764</u>	<u>11,754</u>
<b>6</b>	<b>INVESTMENT INCOME</b>		
	Fixed interest securities	515	23
	Index-linked securities	0	0
	Dividends from equities, managed and unitised funds	44,789	38,453
	Net rents from properties	18,337	17,261
	Interest on deposits	7,432	5,799
	Other	432	182
		<u>71,505</u>	<u>61,718</u>

After 1 June 2006 all the Fund's holdings of bonds were in unitised vehicles,

As at 31 March 2008, £171.7 million of stock was on loan to market makers, which was covered by non-cash collateral totalling £180.8 million. Income from stock lending is included within "Other".

The figure of "Dividends from Equities, managed and unitised funds" includes recoverable taxation of £0.179m, plus income from profits from associate and joint ventures of £6.114m. Irrecoverable taxation amounted to £16.2m (2006/07 £15.1m)

This page is intentionally left blank

## 7 INVESTMENTS

	<u>Market Value @ 31.3.07</u>	<u>Purchases at cost</u>	<u>Sale Proceeds</u>	<u>Change in Market* value</u>	<u>Market Value @ 31.3.08</u>
	£'000	£'000	£'000	£'000	£'000
Fixed Interest Securities	0	0	0	0	0
Index-Linked Securities	0	0	0	0	0
Equities	1,077,743	737,784	637,755	-53,038	1,124,734
Managed & Unitised Funds	2,589,491	1,370,475	1,500,895	-24,441	2,434,630
Other	137,150	86,387	7,616	152	216,073
Properties	355,475	6	0	-60,131	295,350
Short term deposits	116,573	0	15,795	0	100,778
	<b>4,276,432</b>	<b>2,194,652</b>	<b>2,162,061</b>	<b>-137,458</b>	<b>4,171,565</b>

**\*Note:** The change in market value of investments during the year comprises all realised and unrealised appreciation and depreciation. The high volume of sales and purchases reflects changes of external managers during the year.

	<u>2008</u> <u>£'000</u>	<u>2007</u> <u>£'000</u>
<b>Fixed Interest Securities (segregated holdings)*</b>		
UK Fixed Interest	0	0
UK Corporate Bonds	0	0
Overseas Fixed Interest	0	0
	<u>0</u>	<u>0</u>
<i>*Other than Corporate Bonds, all are public sector securities.</i>		
<b>Index-Linked Securities (segregated holdings)</b>	<u>0</u>	<u>0</u>
<b>Equities (segregated holdings)</b>		
UK Quoted	424,028	461,412
Overseas Quoted	700,706	616,331
	<u>1,124,734</u>	<u>1,077,743</u>
<b>Managed* and Unitised Funds</b>		
UK Fixed Interest	276,419	188,228
UK Corporate Bonds	244,601	296,927
Overseas Fixed Interest	0	27,043
Index-Linked Securities	522,052	450,516
UK Equities	755,235	938,721
Overseas Equities	449,261	533,038
Unlisted Securities (Private Equity)	121,844	100,153
Property Unit trusts	65,218	54,865
	<u>2,434,630</u>	<u>2,589,491</u>
<b>Other Investments</b>	<u>216,073</u>	<u>137,150</u>
<b>UK properties</b>		
Freehold	247,472	299,225
Leasehold	47,878	56,250
	<u>295,350</u>	<u>355,475</u>
<b>Short term Deposits</b>	<u>100,778</u>	<u>116,573</u>

## 8 INVESTMENT MANAGEMENT EXPENSES

Fees paid to the 6 major investment managers amount to £4.049m, and constitute the bulk of the figure of £4.961m investment management fees. Charges vary between fund managers, and between markets and types of security. Charges are calculated as a percentage of the value of the investments.

This page is intentionally left blank



## 9 CURRENT ASSETS AND LIABILITIES

	<u>2008</u> <u>£'000</u>	<u>2007</u> <u>£'000</u>
<b>Assets</b>		
Contributions due	16,341	14,889
Accrued and outstanding investment income	9,168	7,290
Due from stockbrokers	494,166	3,768
Transfer values receivable	2,357	0
Cash at Bank	25,624	4,670
Sundries	6,105	5,792
	<u>553,761</u>	<u>36,409</u>
<b>Liabilities</b>		
Due to stockbrokers	461,736	3,917
Transfer values payable	0	95
Provisions	617	304
Miscellaneous	7,641	7,548
	<u>469,994</u>	<u>11,864</u>
<b>Total Other Assets and Liabilities</b>	<u>83,767</u>	<u>24,545</u>

The figure of debtors does not include future payments from employers who are making special additional payments in respect of early retirement costs over an agreed number of years.

The high level of money due to and from stockbrokers is a reflection of the Asset Reallocation following the Triennial Valuation of March 2008. This involved purchases and sales of stock that had not settled as at 31 March 2008. These covered transfers of stock both within and between fund managers.

The reduction in "transfer values payable" figure reflects a recent decision that the Fund retains responsibility for a group of pensioners and deferred members whose former employer, having left the Fund, will now consequently pay the Fund in respect of such liabilities.

## 10 COMMITMENTS

Commitments for investments amounted to £126.033m as at 31 March 2008.

## 11 RELATED PARTY TRANSACTIONS

Administration and investment management costs include charges by Wirral Council in providing services in its role as administering authority to the Fund, which amount to £3.275m (2007 £3.291m). Such charges principally relate to staffing required to maintain the pension service. A specific declaration has been obtained from principal officers and Pension Committee members regarding membership of and transactions with such persons or their related parties. No declarable related party transactions have been reported.

## 12 SUMMARY OF MANAGERS' PORTFOLIO VALUES AS AT 31 MARCH 2008

	£m	%
<b>Externally Managed</b>		
J P Morgan	160	3.8%
UBS	318	7.6%
Nomura	416	10.0%
Schroders	214	5.1%
Legal & General (Pooled Assets)	1,468	35.2%
Legal & General (Bonds)	227	5.4%
	<u>2,803</u>	<u>67.2%</u>
<b>Internally Managed</b>		
	1,368	32.8%
	<u>4,171</u>	<u>100.0%</u>

## 13 ADDITIONAL VOLUNTARY CONTRIBUTIONS

The Committee holds assets invested separately from the main fund. In accordance with Regulation 5 (2) (c) of the Pensions Schemes (Management and Investment of Funds) Regulations 1998, these assets are excluded from the Pension Fund accounts.

The Scheme providers are Equitable Life, Standard Life and Prudential. Individual members participating in this arrangement each receive an annual statement confirming the amounts held on their account and the movements in the year. As requested by the Local Authority Statement of Recommended Practice (2007-08) an aggregate breakdown between contributions, repayments and change in market value is now available for the balances as at 31 March 2008.

	<u>2008</u> <u>£000</u>	<u>2007</u> <u>£000</u>
The aggregate amount of AVC investments is as follows:		
Equitable Life	3,464	3,633
Standard Life	7,593	6,859
Prudential	3,615	3,089
	<u>14,672</u>	<u>13,581</u>

Changes during the year were as follows:

Change in March 2007 valuation for Standard Life	368
Contributions	1,627
Repayments	-1,106
Change in market values	202
Increase in value from 2006/07 published accounts	<u>1,091</u>

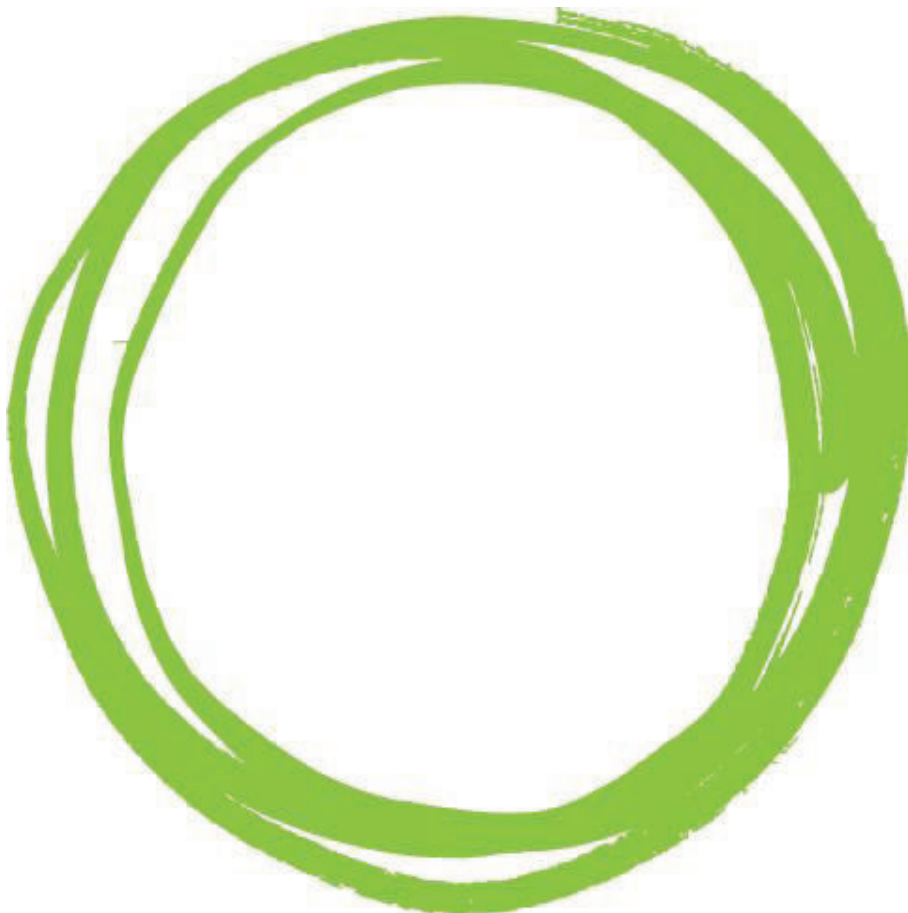
This page is intentionally left blank

# Annual Governance Report

Merseyside Pension Fund

Audit 2007/08

September 2008



---

# Contents

<b>Summary</b>	<b>3</b>
<b>Financial statements and Annual Governance Statement</b>	<b>4</b>
<b>Formal audit powers</b>	<b>9</b>
<b>Independence</b>	<b>10</b>
<b>Appendix 1 – Draft letter of representation</b>	<b>12</b>
<b>Appendix 2 – Adjusted errors</b>	<b>16</b>
<b>Appendix 3 – Draft auditor's report</b>	<b>18</b>

---

## Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

# Summary

## Purpose

- 1 This report summarises the findings from our 2007/08 audit of Merseyside Pension Fund, which is substantially complete. It identifies the key issues that you should consider before we issue our report on whether the financial statements included in the Annual Report are consistent with the statutory financial statements of Wirral Borough Council for the year ended 31 March 2008.
- 2 This report includes only matters of governance interest that have come to our attention in performing our audit. Our audit is not designed to identify all matters that might be relevant to you.

## Financial statements

- 3 We expect to issue an unqualified report, including our opinion that Merseyside Pension Fund's financial statements are consistent with the statutory financial statements of Wirral Borough Council for the year ended 31 March 2008.
- 4 The financial statements submitted for audit were complete but contained some errors. During the audit, management agreed to 8 adjustments to the figures in the accounts and 3 adjustments to notes that we recommended. In total these adjustments increased the value of the fund account and the net assets statement by £1.387m.
- 5 The arrangements for production of your financial statements are satisfactory. The draft financial statements were produced by the target date and the working papers to support the financial statements were generally good.

## Next steps

- 6 We ask the Pensions Committee to:
  - consider the matters raised in the report before approving the financial statements;
  - agree to adjust the financial statements as set out in our recommendations;
  - approve the representation letter on behalf of the Pension Fund before we issue our report; and
  - agree the proposed action plan.

# Financial statements and Annual Governance Statement

- 7 Merseyside Pension Fund’s financial statements are an important means by which the Fund accounts for its stewardship of public funds. As Pensions Committee members you have final responsibility for the Fund's financial statements. It is therefore important that you consider our findings before you adopt the financial statements.
- 8 In planning our audit we identified specific risks and areas of judgement that we have focused on during our audit. We report to you the findings of our work in those areas.
- 9 In addition, auditing standards require us to report to you:
  - the draft representation letter which we are asking management and you to sign;
  - our views about the Pension Fund’s accounting practices and financial reporting;
  - errors in the financial statements;
  - any expected modification to our report;
  - weaknesses in internal control; and
  - certain other matters.

## Key areas of judgement and audit risk

- 10 In planning our audit we identified key areas of judgement and audit risk that we have considered as part of our audit. Our findings are set out in Table 1.

**Table 1 Key areas of judgement and audit risk**

Issue or risk	Finding
Investments not lodged with either the global custodian or one of the major manager/ custodians and/or unlisted securities. Has potential to be the cause of uncertainty regarding overall valuation.	We have no concerns over valuation. All investments are brought together in a report produced by the global custodian and we have made a recommendation to improve internal control at table 3 below.
Change of investment manager.	We have no concerns regarding the transition arrangements or the value of assets transferred.

### Draft representation letter

- 11** Before we issue our opinion, auditing standards require us to obtain from you and management, written representations that:
- you acknowledge your collective responsibility for preparing financial statements in accordance with the applicable financial reporting framework;
  - you have approved the financial statements;
  - you acknowledge your responsibility for the design and implementation of internal controls to prevent and detect fraud and error;
  - you have told me the results of your assessment of the risk that the financial statements might be materially misstated because of fraud;
  - you have told me any actual or suspected fraud by management, employees with significant roles in internal control or others (where the fraud could have a material impact on the financial statements);
  - you have told me of any allegations of fraud, or suspected fraud, affecting the financial statements communicated by employees, former employees, regulators or others;
  - you have told me about all known actual or possible non-compliance with laws and regulations whose effects should be considered when preparing financial statements;
  - you have assessed the reasonableness of significant assumptions, including whether they appropriately reflect management's intent and ability to carry out specific courses of action on behalf of the Fund where relevant to the fair value measurements or disclosures;
  - you are satisfied that all related parties requiring disclosure in the financial statements have been disclosed and that the disclosure is adequate;
  - you are satisfied that the individual or collective impact of errors we have identified, but that you have not corrected, is not material; and
  - cover areas where other sufficient appropriate evidence cannot reasonably be expected to exist, for example the completeness of the disclosure of contingent liabilities.
- 12** Appendix 1 contains the draft of the letter of representation we seek from you.

### Accounting policies and financial reporting

- 13** We consider the qualitative aspects of your financial reporting. Table 2 contains the issues we want to raise with you.

**Table 2 Accounting practice and financial reporting**

Issue or risk	Finding
Merseyside Pension Fund commitments note 10	The commitments value at note 10 to the accounts is produced from a report that does not include some alternative investments and limited partnership agreements. The note has been understated by £26m. Management has agreed to amend note 10 by increasing the value of commitments by £26m from £99.581m to £126m (see also Appendix 2). There is no effect on the face of the statements.
Compliance with financial reporting standards (SoRP)	The audit identified some areas where disclosures required by the SORP were not being provided within the WBC Statement of Accounts (Pension Fund section) and where there was inconsistency between statements. The effect of this was not significant but management has agreed to amend the disclosures.
Asset reallocation process	During the year, the Fund carried out a significant asset reallocation process. This process led to a very high level of sums due to and from stockbrokers, £462m and £494m respectively. However, these sums are largely internal to the managers concerned, with £111m transferred from Schrodgers to L&G and £32m transferred from L&G to MPF being the only actual movements. In relation to normal trading, sums due to and from stockbrokers were just £840k and £1,287k respectively. Management agreed to add a note in the accounts explaining the reasons for the high level of stockbrokers debtors and creditors.

**Recommendation**

**R1** Improve quality assurance processes within and coordination between Merseyside Pension Fund and Wirral Borough Council Financial Services to ensure full SoRP compliance and consistency between the statements.



## Financial statements and Annual Governance Statement

### Errors in the financial statements

- 14 We identified errors in the financial statements (other than those of a trivial nature) and reported these to management.
- 15 Management has agreed to adjust the financial statements for the 8 errors or adjustments identified at Appendix 2. However, because of the weakness in financial control process that caused the errors we are reporting these errors to you. In total these adjustments increased the value of the fund account and the net assets statement by £1.387m.

### The audit report

- 16 We plan to issue an unmodified report including an opinion that the financial statements included in the Annual Report are consistent with the statutory financial statements of the Authority for the year ended 31 March 2008. Appendix 3 contains a copy of our draft report.

### Material weaknesses in internal control

- 17 We have not identified any weakness in the design or operation of an internal control that might result in a material error in your financial statements of which you are not aware.
- 18 We have, however, identified some weaknesses in internal control and draw these to your attention to strengthen the control environment. These weaknesses are set out in Table 3.

**Table 3 Weaknesses in internal control**

Issue or risk	Finding
Reports on investments provided by the Global Custodian	Reports provided by the Global Custodian now provide information on investments held by the custodian and those for which an accountancy service only is provided, without identifying explicitly custodied and non-custodied investments.
Investment in property	The investment ledger does not record individual investment property transactions but rather shows an overall valuation, updated by the valuer's report.
Investments managed internally	Valuations for a number of investments had been sought but have not been obtained by Merseyside Pension Fund.

Issue or risk	Finding
Related party disclosures	Note 11 to the Statement of Accounts indicates that related party declarations have been made by all members of the Pensions Committee. However, although declarations were made for all current members, they were not been obtained for three former members of the Committee who served during 2007/08 but are no longer councillors. Reminders were sent requesting them.

Recommendations
<b>R2</b> Arrange for the global custodian to provide definitive information at year end on the investments for which they are responsible as custodian and those for which an accountancy only service is provided.
<b>R3</b> Review the arrangements for recording property investments and maintain individual property records within an asset register to support the investments ledger.
<b>R4</b> Obtain year end valuations for all investments.
<b>R5</b> Ensure related party declarations are obtained for all relevant councillors.

19 We have not provided a comprehensive statement of all weaknesses which may exist in internal control, nor of all improvements which may be made. We have reported only those matters which have come to our attention because of the audit procedures we have performed.

**Other matters**

20 There are no other matters that auditing standards require me to report to you.

# Formal audit powers

21 We have:

- a power to issue a public interest report. We do so where we believe this is necessary to draw a matter to your attention, or to that of the public;
- a power to apply to court for a declaration that an item in the Pension Fund and Council's accounts is contrary to law;
- a power to issue an advisory notice. An advisory notice requires the Pension Fund and Council to meet and consider the notice before:
  - making a decision that might give rise to unlawful expenditure; or
  - taking an unlawful course of action that would give rise to a loss; or
  - making unlawful entry in the accounts; and
- a power to seek judicial review of a decision of the Council.

22 We have not and do not propose to exercise these powers in respect of Merseyside Pension Fund.

# Independence

- 23** The Code of Audit Practice and the Audit Practice Board's (APB's) Ethical Standards with which auditors must comply require that auditors act, and are seen to act, with integrity, objectivity and independence.
- 24** We confirm that we comply with the APB's Ethical Standards, that we are independent and that our objectivity is not compromised.
- 25** We communicate to you:
- any relationships between us and the Pension Fund and Council, its members and senior management that might affect our objectivity and independence and any safeguards put in place;
  - total fees charged to you for audit and non-audit services; and
  - our arrangements to ensure independence and objectivity.

## Relationships with the Pension Fund and Council

- 26** We have identified no relationships that might affect objectivity and independence.

## Audit fees

- 27** We reported our fee proposals as part of the Audit Plan for 2007/08. The table below reports the outturn fee against that plan.

**Table 4     Audit fees**

	<b>Plan 2007/08</b>	<b>Actual 2007/08</b>
Total Audit Fees	59,800	59,800
Other work	nil	nil

- 28** The analysis above shows that we contained our audit fee within the totals you have already agreed.
- 29** Under the Audit Commission's advice and assistance power it may provide non-audit services to the Pension Fund. We did not carry out any other work under this power this year.

## Our arrangements to ensure independence and objectivity

- 30** We have comprehensive procedures to ensure independence and objectivity. These are outlined in Table 5.

**Table 5 Arrangements to ensure independence and objectivity**

Area	Arrangements
Independence policies	<p>Our policies and procedures ensure that professional staff or an immediate family member:</p> <ul style="list-style-type: none"> <li>• do not hold a financial interest in any of our audit clients;</li> <li>• may not work on assignments if they have a financial interest in the client or a party to the transaction or if they have a beneficial interest in a trust holding a financial position in the client; and</li> <li>• may not enter into business relationships with UK audit clients or their affiliates.</li> </ul> <p>Our procedures also cover the following topics and can be provided to you on request:</p> <ul style="list-style-type: none"> <li>• the general requirement to carry out work independently and objectively;</li> <li>• safeguarding against potential conflicts of interest;</li> <li>• acceptance of additional (non-audit) work;</li> <li>• rotation of key staff;</li> <li>• other links with audited bodies;</li> <li>• secondments;</li> <li>• membership of audited bodies;</li> <li>• employment by audited bodies;</li> <li>• political activity; and</li> <li>• gifts and hospitality.</li> </ul>
Code of Conduct	<p>The Code of Conduct forms part of the terms and conditions of all Audit Commission employees. The Code of Conduct states that staff have to comply with ethical guidance issued by their relevant professional bodies.</p>
Confidentiality	<p>All staff are required to sign an annual undertaking of confidentiality as a condition of employment.</p>

---

# Appendix 1 – Draft letter of representation

Mr. M. Thomas,  
District Auditor,  
Audit Commission  
Heath Business Park  
Runcorn  
Cheshire  
WA7 4QF

date 25 September, 2008

your ref  
my ref ThomasM/IEC/JJ

please ask for Ian Coleman

Dear Mr. Thomas

## **Merseyside Pension Fund - Audit for the year ended 31 March 2008**

I confirm to the best of my knowledge and belief, having made appropriate enquiries of other officials of Merseyside Pension Fund the following representations given to you in connection with your audit of the Pension Fund financial statements for the year ended 31 March 2008. All representations cover the Pension Fund accounts included within the financial statements.

### **Compliance with the statutory authorities**

I acknowledge my responsibility under the relevant statutory authorities for preparing the financial statements in accordance with the Code of Practice for Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice which present fairly the financial position and financial performance of the Merseyside Pension Fund and for making accurate representations to you.

### **Uncorrected misstatements**

There are no uncorrected financial misstatements listed in the attached schedule.

### Supporting records

All the accounting records have been made available to you for the purpose of your audit and all the transactions undertaken by the Pension Fund have been properly reflected and recorded in the accounting records. All other records and related information, including minutes of all Pensions Committee meetings, have been made available to you.

### Irregularities

I acknowledge my responsibility for the design and implementation of internal control systems to prevent and detect fraud or error.

There have been no:

- irregularities involving management or employees who have significant roles in the system of internal accounting control;
- irregularities involving other employees that could have a material effect on the financial statements;
- communications from regulatory agencies concerning non-compliance with, or deficiencies on, financial reporting practices which could have a material effect on the financial statements.

I also confirm that I have disclosed:

- my knowledge of fraud, or suspected fraud, involving either management, employees who have significant roles in internal control or others where fraud could have a material effect on the financial statements;
- my knowledge of any allegations of fraud, or suspected fraud, affecting the Pension Fund financial statements communicated by employees, former employees, analysts, regulators or others.

### Law, regulations, contractual arrangements and codes of practice

There are no instances of non-compliance with laws, regulations and codes of practice, likely to have a significant effect on the finances or operations of the Pension Fund.

The Merseyside Pension Fund has complied with all aspects of contractual arrangements that could have a material effect on the financial statements in the event of non-compliance. There has been no non-compliance with requirements of regulatory authorities that could have a material effect on the financial statements in the event of non-compliance.

### Fair Values

I confirm the reasonableness of the significant assumptions within the financial statements. For fair value of quoted securities I have used mid-prices, and for unquoted securities, I confirm:

- the appropriateness of the measurement method;
- the basis used by management to overcome the presumption under the financial reporting framework;
- the completeness and appropriateness under the financial reporting framework;

### Assets

The following have been properly recorded and, where appropriate, adequately disclosed in the financial statements:

- losses arising from sale and purchase commitments;
- agreements and options to buy back assets previously sold;
- assets pledged as collateral.

### Compensating arrangements

There are no formal or informal compensating balancing arrangements with any of the cash and investment accounts. There are no lines of credit arrangements, other than basic settlement conventions.

### Contingent liabilities

There are no other contingent liabilities, other than those that have been properly recorded and disclosed in the financial statements. In particular:

- there is no significant pending or threatened litigation, other than those already disclosed in the financial statements;
- there are no material commitments or contractual issues, other than those already disclosed in the financial statements
- there are no financial guarantees which have been given to third parties.

### Related party transactions

I confirm the completeness of the information disclosed regarding the identification of related parties. However, three declarations were not received.

The identity of, and balances and transactions with, related parties have been properly recorded and where appropriate, adequately disclosed in the financial statements.



## Appendix 1 – Draft letter of representation

### Post balance sheet events

Since the date of approval of the financial statements by Pensions Committee no additional significant post balance sheet events have occurred which would require additional adjustment or disclosure in the financial statements.

The Pension Fund has no plans or intentions that may materially alter the carrying value or classification of assets and liabilities reflected in the financial statements.

Signed on behalf of Merseyside Pension Fund

I confirm that the this letter has been discussed and agreed by the Pensions Committee on 29 September 2008

Signed

Name	Ian Coleman
Position	Director of Finance

## Appendix 2 – Adjusted errors

Item of account	Value disclosed £'000	Description of error or uncertainty	Quantified error/uncertainty		Corrected Y/N	What is the reporting consequence?
			Debit £000	Credit £'000		
Cash	25,624	£12k included re closed rent deposit account	12		Y	Nil net effect - creditors will be reduced by equivalent sum
Accrued Investment Income (Deposits)	9,168	Interest payable by Yorkshire Bank not accrued		124	Y	Income and debtor entries increased by £124k
Accrued Investment Income (Deposits)	9,168	errors in accrued interest calculations	601		Y	Income and debtor entries reduced by £601k
Investment Valuation (externally managed equities)	894,000	Discrepancy between manager's valuation and Investment ledger (Nomura)	748		Y	Value of Fund reduced by £748k
Investment Valuation (externally managed equities)	894,000	Assets transferred between managers omitted from both Y/e valuations		866	Y	Value of Fund increased by £866k

## Appendix 2 – Adjusted errors

Item of account	Value disclosed £'000	Description of error or uncertainty	Quantified error/uncertainty		Corrected Y/N	What is the reporting consequence?
			Debit £000	Credit £'000		
Transfers In accrual	0	Two bulk transfers IN have been agreed but the amounts involved are not yet agreed or paid		2,357	Y	Income and debtor entries increased by £2.237m
Contributions	216,773	Classification error between employers and employees contributions	1937	1937	Y	Nil net effect
Investments managed internally	216,073	Valuation overstated by £610k	610		Y	Value of fund reduced by £610k
Commitments note 10	99,581	Some commitments have been excluded from the assessment.			Y	Nil effect on fund. Note value increases by 26m to £126m

In total these adjustments increase the value of the fund account and the net assets statement by £1.387m

---

# Appendix 3 – Draft auditor's report

## Independent auditor's report to the Members of Merseyside Pension Fund on the Pension Fund Annual Report

I have examined the financial statements included in the Pension Fund Annual Report which comprise the Fund Account, the Net Assets Statement and the related notes.

This report is made solely to Merseyside Pension Fund in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 36 of the Statement of Responsibilities of Auditors and of Audited Bodies prepared by the Audit Commission.

### Respective responsibilities of the Director of Finance and auditors

The Director of Finance is responsible for preparing the Annual Report in accordance with the Statement of Recommended Practice 'Financial Reports of Pension Schemes 2002'. My responsibility is to report to you my opinion on the consistency of the financial statements within the Annual Report with the statutory financial statements. I also read the other information contained in the Annual Report and consider the implications for my report if I become aware of any misstatements or material inconsistencies with the statutory financial statements.

### Basis of opinion

I conducted my work in accordance with paragraphs 15-18 of Bulletin 1999/6 'The auditors' statement on the summary financial statement' issued by the Auditing Practices Board.

### Opinion

In my opinion the financial statements included in the Annual Report are consistent with the statutory financial statements of the Authority for the year ended 31 March 2008.

Michael Thomas  
District Auditor, Officer of the Audit Commission

Audit Commission, Heath Business Park, Runcorn, Cheshire, WA7 4QF

Date:

---

# The Audit Commission

The Audit Commission is an independent watchdog, driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone.

Our work across local government, health, housing, community safety and fire and rescue services means that we have a unique perspective. We promote value for money for taxpayers, covering the £180 billion spent by 11,000 local public bodies.

As a force for improvement, we work in partnership to assess local public services and make practical recommendations for promoting a better quality of life for local people.

---

## Copies of this report

If you require further copies of this report, or a copy in large print, in Braille, on tape, or in a language other than English, please call 0844 798 7070.

© Audit Commission 2008

For further information on the work of the Commission please contact:

Audit Commission, 1st Floor, Millbank Tower, Millbank, London SW1P 4HQ

Tel: 020 7828 1212 Fax: 020 7976 6187 Textphone (minicom): 020 7630 0421

[www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)

This page is intentionally left blank

## WIRRAL COUNCIL

### PENSIONS COMMITTEE

29 SEPTEMBER 2008

### REPORT OF THE DIRECTOR OF FINANCE

#### LGPS REFORM UPDATE

#### 1. EXECUTIVE SUMMARY

- 1.1. This report informs Members of progress with the production of regulations by the Department for Communities and Local Government (DCLG) in connection with the introduction of the revised LGPS from 1 April 2008 and the impact of local government reorganisations.
- 1.2 Members are requested to note the report and to agree that a response be submitted to DCLG supporting the automatic aggregation of employments for pension purposes in the event of local government reorganisation.

#### 2. BACKGROUND

- 2.1 The Pensions Committee last considered progress in implementing the new regulations as part of the reform of the LGPS, on 24 June 2008 (Minute 7 refers).
- 2.2 No further new legislation has been issued by the DCLG since the LGPS (Amendment) Regulations 2008, on 16 April 2008 which were considered at the last meeting of the Committee.
- 2.3 The DCLG has issued an initial version of Draft Statutory Ill Health Retirement Guidance under cover of its letter dated 1 July 2008 which is the subject of a separate report to this Committee.
- 2.4 Implementing the new three tier ill health arrangements and in particular the tier three benefit continues to be a matter of concern which will face employers from 1 October 2008 when the current six month transitional protection period ends.

#### 3. OTHER OUTSTANDING MATTERS

##### **Pensions Administration Strategy**

- 3.1. The expected guidance from DCLG on drawing up a Pensions Administration Strategy Plan to formalise administrative arrangements and service standards between the Pension Fund and participating employers has still not yet been published.

##### **Cost Sharing Mechanism**

- 3.2. Meetings of the LGPS Policy Review Group are continuing, to discuss various issues including agreement on the introduction of a cost sharing mechanism. Final agreement on such a mechanism and other issues is still awaited.

## **85 Year Rule Protection**

- 3.3. The outcome of the consultation on extension of full “85 year Rule” protection to those who would satisfy the requirements by 31 March 2020 rather than 31 March 2016 is still awaited from DCLG. In the meantime tapering protection has been applied in accordance with the Regulations for those members who would not have satisfied the 85 year rule until the period 1 April 2016 to 31 March 2020.

## **COUNCILLORS PENSIONS**

- 3.4. The new regulations currently still do not deal with arrangements for councillors pensions and provision remains subject to the 1997 Regulations. The **Report on Members Remuneration** was published by the Councillors Commission in December 2007 and Chapter 15 considered pensions arrangements for councillors.
- 3.5. The DCLG had confirmed that it expected to publish a response to the wider remuneration issues raised by the report by the Councillors Commission during the summer and to then begin a consultation on proposals for future pensions arrangements for elected members. To date no response has been published.
- 3.6. The Local Government Employers Organisation (LGE) has carried out a survey of Pension Funds (Circular 214) to establish which councils have decided to offer membership of the LGPS to councillors and what the latest take up of Scheme membership is amongst elected members. The closing date for responses to the survey was 31 August 2008 and the results are awaited.

## **4. GOVERNMENT ACTUARY’S DEPARTMENT (GAD) GUIDANCE & FACTORS**

- 4.1. Guidance on dealing with Transfer Values and the impact of Cash Commutation and the impact of the HM Revenue & Customs Lifetime Allowance have been issued by the Government Actuary’s Department.

## **5. THE DRAFT LGPS (AMENDMENT) REGULATIONS 2009**

- 5.1. The DCLG has circulated the above mentioned draft regulations under cover of its letter dated 19 August 2008 (Appendix 1 and 2 attached).

The regulations deal with the pensions implications of local government reorganisation as provision needs to be made for pension continuity for staff transferred from their existing authority to a new unitary authority.

- 5.2. Concern has been expressed about the effect of regulation 16(6) of the LGPS (Administration) Regulations 2008, which provides that where a person ceases to be an active member in one employment and immediately becomes an active member in another employment, they shall be treated as if they were a deferred member in respect of the first employment, despite never having ceased to be an active member of the Scheme. This would therefore result in transferring members each having to give notice of aggregation.



- 5.3. To overcome this concern, the draft regulations provide for an amendment to the LGPS (Administration) Regulations 2008 Regulation 16 to make it clear that this particular regulation does not apply in relation to any transfers of staff resulting from an order or regulations made under Part I of the Local Government and Public Involvement in Health Act 2007. This would therefore apply to all current reorganisations of local government, and also to any future reorganisations.
- 5.4. However, consultees' views are sought as to whether such a provision should apply *only* in the case of those reorganisations affected by the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008. This would mean that, were the Boundary Committee to propose any structures, which were subsequently approved by the Secretary of State, that may not be covered by the definitions given in these Staffing Regulations, there may be need for further legislative provision to disapply regulation 16(6) to any staff transfers occurring as a result.
- 5.5. DCLG is therefore interested in opinions as to whether the wider approach outlined above, or the narrower approach would be more appropriate. Any comments are required by 31 October 2008.
- 5.6. I would recommend that the wider approach should be supported to ensure that further legislation and unnecessary requirements on employees to opt to aggregate their membership in such cases of reorganisation are avoided.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 A number of the outstanding issues referred to in this report may well have implications on future funding, including future ill health costs, the final costs of "85 Year Rule" protection depending on whether full protection is extended to 2020 and actual yields from employee contributions and take up of the pension to lump sum commutation option.
- 6.2 It will not be until the 31 March 2010 actuarial valuation, after which time the cost sharing mechanism will be implemented, that the long term future costs of the LGPS are likely to become clear.

## **7. STAFFING IMPLICATIONS**

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

## **8. EQUAL OPPORTUNITY IMPLICATIONS**

- 8.1. There are none arising from this report.

## **9. COMMUNITY SAFETY IMPLICATIONS**

- 9.1. There are none arising from this report.

## **10. HUMAN RIGHTS IMPLICATIONS**

- 10.1. There are none arising from this report.

**11. LOCAL AGENDA 21 IMPLICATIONS**

11.1. There are none arising from this report.

**12. PLANNING IMPLICATIONS**

12.1. There are none arising from this report.

**13. MEMBER SUPPORT IMPLICATIONS**

13.1. There are none arising from this report.

**14. BACKGROUND PAPERS**

14.1. LGE Circular number 214 - July 2008

14.2 DCLG Letter dated 19 August 2008 and Draft LGPS (Amendment) Regulations 2009.

**15. RECOMMENDATION**

15.1 That a response be submitted to DCLG supporting the automatic aggregation of employments for pension purposes in the event of local government reorganisation.

IAN COLEMAN  
DIRECTOR OF FINANCE

FNCE/212/08

19 August 2008

Our ref:

To: addressees attached

Dear Colleague

**LOCAL GOVERNMENT RE-ORGANISATION: TO IDENTIFY NEW LEAD ADMINISTERING AUTHORITIES FOR THE OLD CHESHIRE AND BEDFORDSHIRE COUNTY AREAS; AND PROPOSED CHANGES TO REGULATION 16 OF THE LOCAL GOVERNMENT PENSION SCHEME (LGPS) (ADMINISTRATION) REGULATIONS 2008**

1. With Ministers' agreement, I enclose draft regulations which will:  
(a) identify new lead administering authorities for the county areas of Cheshire and Bedfordshire as a result of local government re-organisation.; and  
(b) deal with pension continuity for active members of the LGPS transferring employment under local government re-organisation.

2. Your comments are invited by **31 October 2008**. Consultees who wish to discuss the proposals are invited to get in touch with Nicola Rochester without delay to allow any meetings to take place within the consultation period.

**Draft proposals**

**New Lead Administering Authorities**

3. As a result of local government re-organisation in the county areas of Cheshire and Bedfordshire, four new unitary authorities have been created. These are: Cheshire West and Chester Council, Cheshire East Council, Central Bedfordshire Council and Bedford Borough Council.

4. There is now a need to amend the LGPS Scheme Regulations to provide for new lead Administering Authorities, from 1 April 2009, for the previous Cheshire and Bedfordshire areas, and identify the relevant employing authorities.

**Continued eligibility for membership**

5. Provisions have been made in the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008 (2008/1419), reg. 6, to permit continued eligibility for membership to the LGPS to deal with staff in shadow authorities

6. In addition, provision needs to be made for pension continuity for staff transferred from their existing authority to a new unitary authority. Concern has been expressed about the effect of regulation 16(6) of the LGPS (Administration) Regulations 2008 (2008/239), which provides that where a person ceases to be an active member in one employment and immediately becomes an active member in another employment, they shall be treated as if they were a deferred member in respect of the first employment, despite never having ceased to be an active member of the Scheme. This would therefore result in transferring members each having to give notice of aggregation.

7. To overcome this concern, the draft regulations provide for an amendment to the LGPS (Administration) Regulations 2008 Regulation 16 to make it clear that this particular regulation does not apply in relation to any transfers of staff resulting from an order or regulations made under Part I of the Local Government and Public Involvement in Health Act 2007. This would therefore apply to all current reorganisations of local government, and also to any future reorganisations, for example any that may result from the Boundary Committee's current investigations of Devon, Suffolk and Norfolk.

8. However, consultees' views are sought as to whether such a provision should apply *only* in the case of those reorganisations affected by the Local government (Structural and Boundary Changes) (Staffing) Regulations 2008. This would mean that, were the Boundary Committee to propose any structures, which were subsequently approved by the Secretary of State, that may not be covered by the definitions given in these Staffing Regulations, there may be need for further legislative provision to disapply regulation 16(6) to any staff transfers occurring as a result.

9. We are therefore interested in your opinion as to whether the wider approach outlined at paragraph 7, or the narrower approach of paragraph 8 would be more appropriate.

### **Responses**

10. Your comments should be sent by **31 October to Nicola Rochester**, Workforce Pay and Pensions Division, Department for Communities and Local Government, Zone 5/G6, Eland House, 123 Victoria Street, London, SW1E 6DE. Electronic responses can be sent to [Nicola.rochester@communities.gsi.gov.uk](mailto:Nicola.rochester@communities.gsi.gov.uk) .

Yours sincerely

**Nicola Rochester**  
**Workforce Pay & Pensions Branch 3**



**The consultation is addressed to:**

The Chief Executive of:  
Bedfordshire County Council  
Cheshire County Council  
Central Beds Joint Implementation Team (JIT) Leader  
Bedford JIT Leader  
Cheshire West and Chester JIT Leader  
Cheshire East JIT Leader  
Cornwall County Council  
County Durham County Council  
Northumberland County Council  
Shropshire County Council  
Wiltshire County Council  
District Councils affected by reorganisation

LGPS Pension Fund Managers

Association of District Treasurers

Local Government Association (LGA)  
Local Government Employers' Organisation (LGE)

Society of County Treasurers  
Society of Local Council Clerks

PPMA

Trades Union Congress

UNISON

ASPECT

AMICUS

UCATT

GMB

NAPO

TGWU

1. This consultation will be available for viewing on the LGFPS website - [www.xoq83.dial.pipex.com](http://www.xoq83.dial.pipex.com). A summary of responses will be published within 3 months of the close of the consultation on this website.
2. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
3. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
4. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## WIRRAL COUNCIL

### PENSIONS COMMITTEE

29 SEPTEMBER 2008

### REPORT OF THE DIRECTOR OF FINANCE

#### ILL HEALTH RETIREMENT REGULATIONS UPDATE

##### 1. EXECUTIVE SUMMARY

- 1.1. This report informs Members of the latest information on the new ill health arrangements introduced by the Department for Communities and Local Government (DCLG) on 1 April 2008.

##### 2. BACKGROUND

- 2.1. The DCLG originally issued the LGPS (Benefits, Membership and Contributions) Regulations 2007 on 4 April 2007, dealing with the introduction of new tiered ill health regulations from 1 April 2008.
- 2.2. Members last considered this matter at the Pensions Committee on 24 June 2008 (Minute 9 refers).

##### Ill Health Retirement - Experience to Date

- 2.3. Between 1 April 2008 and 31 August 2008 MPF received and processed 52 ill health retirements under the new ill health regulations.

Of the 52 cases four, (all of which were tier 3 cases) have received Ill health benefits calculated under the 1997 Regulations transitional protection provisions rather than temporary tier 3 benefits.

- 2.4 The breakdown of cases under the three tiers is as shown in the table below -

Ill Health Tier	Number of cases & notes
Tier 1 - 100% enhancement	44 cases - (3 received enhancement under the 1997 Regulations as they were aged at least 45 on 1 April 2008 under ongoing protection rules)
Tier 2 - 25% enhancement	4 cases - with over age 45 ongoing LGPS 1997 membership underpin
Tier 3 - no enhancement	4 Cases - with the 1997 Regulations applied instead under 6 months transitional protection

- 2.5 The experience from 1 April 2008 to date may not be representative of the split to be expected between tiers in the long term, with nearly 85% of all the cases dealt with so far falling in the highest and most expensive tier for employers with 100% of prospective membership up to age 65 awarded.

### 3. STATUTORY GUIDANCE

- 3.1. The amendment regulations issued on 16 and 22 April 2008 dealt with the outstanding matter of **tier 3 benefits**, and also confirmed the definition of “within a reasonable period of leaving employment” as being three years.
- 3.2. A draft version of the promised Statutory Ill Health Guidance was issued by the DCLG on 1 July 2008 (Appendix 1 attached) and comments were requested by 12 August 2008. A copy of the response submitted on 7 August 2008, raising several technical questions is attached for Members information (Appendix 2). A set of questions and answers intended to clarify the intention of the regulations has also been produced by the DCLG and a copy is attached at Appendix 3.
- 3.3. One particular concern to employers will be the fact that the regulations provide for a tier 3 case to be re-determined, at any time up to age 65 based on further medical evidence as a tier 2 benefit with 25% enhancement even if the benefit has previously been terminated.
- 3.4. The third tier benefit (**tier 3**) provides for payment of a pension based on the annual equivalent of the member’s accrued pension benefits at the point of leaving employment, This is payable by the Pension Fund (rather than as previously proposed by the employer), for a maximum period of up to three years or until either gainful employment is obtained or as a result of the outcome of a medical review decision if earlier.
- 3.5. Under Regulation 31, an ill-health benefit can also be paid to a person who has left a local government employment with an entitlement to a deferred benefit, who becomes permanently incapable of discharging efficiently the duties of their former employment before becoming entitled to payment of that benefit.
- 3.6. The employer must obtain a medical opinion from a suitable medical practitioner to confirm that the member is both:

permanently incapable because of ill health from discharging efficiently the duties of the relevant employment and if so,

whether that condition is likely to prevent the member from obtaining gainful employment (whether in local government or otherwise) before reaching age 65, or for at least three years whichever is sooner.

### 4. TRANSITIONAL PROTECTION ARRANGEMENTS

- 4.1. The Amendment Regulations set out transitional arrangements to be applied where a determination is made by an employer under Regulation 20 between 1 April 2008 and 30 September 2008. In those cases where the new ill health regulations would place the member in a worse position than under the 1997 regulations, they shall continue to have effect as if they were still in force.



- 4.2. To date therefore, nobody retired on ill health grounds since 1 April 2008 has actually been awarded less than they would have received under the previous regulations.
- 4.3 For any ill health determinations made by employers from 1 October 2008 onwards the new regulations only will be applied and there will be scope for people to be worse off if they are awarded other than the highest tier 1 benefits. An increase in appeals can therefore be expected.

## 5. REVIEW OF TIER 3 ILL HEALTH AWARDS

- 5.1. The Regulations require employers to review tier 3 benefits after they have been in payment for 18 months. The third tier of ill-health benefit will provide a pension until such time as the member obtains gainful employment, or the point that an Independent Occupational Health Practitioner (IOHP) confirms that they are capable of obtaining gainful employment following a review. **Employers will have powers to stop payments** in these circumstances.
- 5.2. A review process should be started when payments have been made for 18 months. At the review, if it is found that the third tier member is not in gainful employment, the **employer will be able to seek a further opinion** from an IOHP which could result in the benefit being terminated or the level of benefits being revised to the enhanced second tier. Enhanced payments awarded following a review would not be backdated but would be payable from the later determination following advice from the IOHP.
- 5.3. At the end of three years the tier benefit will either be discontinued until normal retirement age or be revised to the tier 2 level depending on the results of a further medical review which the employer will be required to carry out. The employee can require the employer to review their medical condition at any time up to age 65.

## 6. FINANCIAL IMPLICATIONS

- 6.1. The Actuary has incorporated assumptions of the impact of the new regulations when completing the 31 March 2007 Actuarial Valuation to determine employers' contribution rates for the period 1 April 2008 to 31 March 2011. These may need to be revised at the next valuation depending on actual experience. To date nearly 85% of all cases have been awarded the highest tier 1 benefit with 100% enhancement.
- 6.2. It will not be until the 31 March 2010 actuarial valuation, at which time the cost sharing mechanism will also be implemented, that the long term future costs of the LGPS including the ill health changes are likely to become clear.
- 6.3. The reduction of the qualifying period for ill health pensions from two years to three months presents a clear cost implication for employers if substantial numbers of employees opt in to the Scheme just prior to ill health retirement to gain the benefit of a significantly enhanced pension (up to 100% of their potential future membership up to age 65) after as little as three months membership.

6.4. The long term cost implications for employers and future funding implications of these changes will be reviewed as part of the Cost Sharing Arrangements by the Local Government Review Group in the light of experience.

**7. STAFFING IMPLICATIONS**

7.1. Implementation of the amended ill health regulations including a more complicated tiered award system and the tier 3 review requirement is likely to increase the workload for both the Pension Fund and the employers and result in increased appeals.

**8. EQUAL OPPORTUNITY IMPLICATIONS**

8.1. There are none arising from this report.

**9. COMMUNITY SAFETY IMPLICATIONS**

9.1. There are none arising from this report.

**10. HUMAN RIGHTS IMPLICATIONS**

10.1. There are none arising from this report.

**11. LOCAL AGENDA 21 IMPLICATIONS**

11.1. There are none arising from this report.

**12. PLANNING IMPLICATIONS**

12.1. There are none arising from this report.

**13. BACKGROUND PAPERS**

13.1 DCLG Letter dated 1 July 2008 and draft Statutory Ill Health Guidance.

13.2 DCLG Questions & Answers aide- memoir document - August 2008.

**14. MEMBER SUPPORT IMPLICATIONS**

14.1. There are none arising from this report.

**15. RECOMMENDATION**

15.1 Members are requested to note the report.

IAN COLEMAN  
DIRECTOR OF FINANCE

1 July 2008

To: addressees at end of the letter

Our ref: Draft Statutory Ill Health  
Guidance

Dear Colleague,

**Local Government Pension Scheme (Benefits, Membership and Contributions)  
Regulations 2007 as amended by the Local Government Pension Scheme  
(Amendment) Regulations 2008:**

**Consultation on draft Statutory Ill Health Guidance – responses invited by 12  
August 2008**

Attached for your comments is a draft of the Statutory Guidance regarding ill health provisions in the Local Government Pension Scheme (LGPS). Regulation 56(3) of the LGPS (Administration) Regulations 2008 authorises the Secretary of State to publish statutory guidance on the new ill-health retirement pension arrangements.

Stakeholders have asked that Statutory Guidance should be finalised as soon as possible and, therefore, your comments are invited by 12 August 2008. Consultees who wish to discuss the draft guidance are invited to get in touch without delay to allow any meetings to take place within the consultation period.

**The new ill health provisions**

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (*benefit regulations*) as amended by the LGPS (Amendment Regulations) 2008 provide retirement benefits for a scheme member who is medically assessed as being permanently incapable of their local authority employment, and medically judged to have a reduced likelihood of obtaining any gainful employment. The regulations provide that a top (1<sup>st</sup>) tier member will receive their accrued pension entitlements plus a service enhancement of all (100%) their prospective membership to their normal retirement rate. A 2<sup>nd</sup> tier member with a lower level of incapacity will receive 25% of prospective membership together with their accrued pension entitlements. A 3<sup>rd</sup> tier member will receive accrued benefits payable as a pension for such time as they do not obtain gainful employment, or until the employer stops payments following the review.

## **Draft Statutory Guidance**

The purpose of the guidance is to advise employers and independent medical practitioners about what they must take into account when carrying out their functions under the new three tier ill-health arrangement that came into effect on 1st April 2008, and to introduce greater consistency in decision-making across local authorities in England and Wales.

The draft guidance takes the form of descriptive text explaining the background and operation of the new ill-health retirement benefit provisions as they apply in the new look scheme from 1 April 2008, plus a description of the relevant statutory provisions, and a set of draft best practice ill health certificate documentation.

We do not wish to restrict comment on the draft paper but it is very important to note that statutory guidance can only reflect the regulations that are on the statute book. Consultees are, therefore, asked to base their comments on the content of the guidance and whether or not this accurately reflects the statutory requirement of the regulations. Questions about the new regulations are a matter, initially, for the Ill Health Monitoring Group to consider.

## **Documentation**

Section 5 of the draft guidance includes a reference to examples of pro-forma certificates which the independent registered medical practitioner is required to submit under regulation 20 (15) of the Benefit regulations, and which the employing authority is required to take into account when making their determination under regulation 20. Examples are provided in Annex A and B. These were provided by the LGE and ALAMA respectively and there has been no attempt to amend the examples. The LGE are also providing, and separate to this consultation, a more extensive set of certificates dealing with deferred members and certification at the 18 month review. Consultees may have designed their own pro-forma certificates or have a view about what might constitute a good working model that would both reflect the regulatory provisions and meet the various needs of scheme employers and medical practitioners. Comments are, therefore, also invited on the examples provided here and more generally on the content of the pro-forma certificate that should form part of the final statutory guidance.

## **Consultation responses**

Your comments should be sent by 12 August 2008 to Nicola Rochester, Workforce, Pay and Pensions, Department for Communities and Local Government, Zone 5/G6, Eland House, Bressenden Place, London, SW1E 6DE. Electronic responses can be sent to [nicola.rochester@communities.gsi.gov.uk](mailto:nicola.rochester@communities.gsi.gov.uk).

Yours sincerely,

Lynda Jones

**Lynda Jones**  
**Head of Branch WPP3**



1. This consultation will be available for viewing on the LGFPS website - [www.xoq83.dial.pipex.com](http://www.xoq83.dial.pipex.com). A summary of responses will be published within 3 months of the close of the consultation on this website.
2. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
3. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
4. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

**LOCAL GOVERNMENT PENSION SCHEME  
STATUTORY GUIDANCE – ILL-HEALTH**

Page 2	Introduction
Page 2	Section 1 - Background
Page 3	- The rationale for a multi tier pension provision
Page 4	- Policy development
Page 4	Section 2 – Statutory Position
Page 4	- Entitlement on ceasing employment
Page 7	- Entitlement after ceasing employment
Page 7	- First instance decisions – ill-health
Page 7	Section 3 – General Guidance
Page 8	- Part I : Role of the employer
Page 8	- Part II : Questions for the employer to determine
Page 9	- Part III : The role and status of the independent registered medical practitioner (IRMP)
Page 10	- Part IV : Questions for the IRMP
Page 11	- Part V : Definitions
Page 11	“permanently incapable”
Page 12	“gainful employment”
Page 12	“reasonable period”
Page 13	“obtaining”
Page 13	“reduced likelihood”
Page 13	Section 4 – The Regulations in Practice
Page 13	- Part VI : The first tier
Page 14	- Part VII : The second tier
Page 14	- Part VIII : The third tier
Page 16	- Part IX : General
Page 17	Section 5 – Documentation
Page 18	Annex A - Pro-forma certificates (current employee) (example A)
Page 26	Annex B - Pro-forma certificate (example B)

**THIS DRAFT PAPER IS ISSUED FOR CONSULTATION PURPOSES AND REFLECTS THE STATUTORY PROVISIONS OF THE LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP AND CONTRIBUTIONS) REGULATIONS 2007 (SI 2007 NO 1166), AS AMENDED BY THE LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) REGULATIONS 2008 (SI 2008 NO 1083)**

## **THE NEW LOOK ILL-HEALTH RETIREMENT PENSION PROVISIONS DRAFT GUIDANCE**

This guidance is issued under Regulation 56(3) of The Local Government Pension Scheme (Administration) Regulations 2008 to all administering authorities, employing authorities, independent registered medical practitioners and other relevant interested parties in England and Wales with statutory responsibilities under the new Local Government Pension Scheme that came into effect on 1 April 2008.

This guidance includes a combination of descriptive text explaining the background and operation of the new ill-health retirement benefit provisions as they apply in the new look scheme after 31 March 2008, a description of the relevant statutory provisions, and a set of best practice documentation that LGPS employers and independent doctors are expected to employ in each ill-health retirement case.

The Secretary of State will keep the content of the guidance under review in the light of employing authorities', independent doctors' and other interested parties' experiences of applying this guidance. The guidance will be updated as necessary to reflect this and any future legislative changes.

Unless a reference is made to regulations by their full title, it can be assumed for the purposes of this guidance that the reference is to a regulation of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (SI 2007 No 1166), as amended. ("the Benefit Regulations").

### **Section 1 - Background**

1. In July 2000, HM Treasury published its review of ill-health retirement in the public sector. The 35 recommendations of the report were accepted in full by the Government and government departments responsible for public service pension schemes were tasked to come forward with individual action plans to implement the report's recommendations. The then DETR's action plan was agreed and published in October 2001.

2. The Department's action plan to implement the inter-Departmental report into ill-health retirements in the public sector 2000, included an undertaking to prepare a discussion paper outlining the scope for introducing four changes to the arrangements for the payment of ill-health retirement benefits under the Local Government Pension Scheme Regulations 1997.

3. The four recommendations included in the Action Plan relevant to this guidance were :-

- **Recommendation 27** - To examine the scope for introducing a two-tier ill-health retirement provision into the LGPS;



- **Recommendation 28** – To introduce the facility to review the levels of ill-health retirement benefit during retirement;
- **Recommendation 29** – To consider the role of abatement in the context of ill-health retirement, and
- **Recommendation 34** – To consider the scope for introducing a more efficient system for awarding enhanced membership on ill-health retirement with less incentive for members to seek ill-health retirement at specific ages.

### **The rationale for a multi tier ill-health pension provision**

4. In common with most other occupational pension schemes in the public sector, the LGPS has historically assessed entitlement to ill-health retirement benefits on the individual employee's capacity to perform efficiently the duties of their former employment. However, the LGPS is different to the extent that for some time, it has also required LGPS employers to consider the capacity to undertake other local government employments that are comparable on the basis of pay, location, training/skill levels, etc. But that apart, there remained the problem envisaged by the July 2000 report that the LGPS, in common with most other occupational pension schemes in the public sector, failed to address the issue of a person's ability to perform a wide range of jobs in the employment sector as a whole.

5. The proposal to introduce a two-stage level of ill-health retirement benefit entailed the introduction of a new upper level of benefit for the minority of LGPS members whose condition rendered them permanently incapable of any work, whether in local government or elsewhere. For the remainder whose incapacity meant that they were still capable of performing work elsewhere, the second level of benefit would be assessed on a case by case basis according to a number of factors, including the degree of incapacity and the extent to which this might affect future earning potential. But given the Government's aim of reducing the levels of ill-health retirement and of retaining people in the workforce up to their normal retirement age and possibly beyond, the scope for introducing a series of measures designed to ease the transition between work and retirement and to retain staff in employment despite their inability to perform their current duties because of ill-health would have to be explored.

6. Although the HM Treasury review focussed its attention on a two tier ill-health pension arrangement, the working group set up by the then DETR to take forward implementation of the action plan considered that the range of incapacities covered by the second tier - from those just short of meeting the top tier criteria and those who would be capable of obtaining gainful employment within a reasonable period after ceasing their local government employment on permanent ill-health grounds - was such that a three tier provision might be more appropriate.

7. It was also suggested that there could be a role for some form of income-protection arrangement as a way of managing long term sickness absence

and ensuring that other alternatives to ill-health retirement, eg, re-training, re-habilitation, re-deployment and flexible retirement, were fully explored before employment is finally terminated on grounds of incapacity.

### **Policy development**

8. After consideration of the views expressed by interested parties, Ministers came forward, in April 2007, with a two tier arrangement and contained in the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (*benefit regulations*). A 1<sup>st</sup> tier member will receive their accrued pension entitlements plus a service enhancement of all (100%) of their prospective membership to their normal retirement rate. A 2<sup>nd</sup> tier member with a lower level of incapacity will receive 25% of that prospective membership along with their accrued pension entitlements.

9. The final element of ill health remained to be decided. CLG explored with key stakeholders the scope for a form of income replacement allowance, outside the pension scheme and to be paid by local authority employers from their revenue. However, agreement was not reached. As new tax rules, introduced in the 2007 Finance Act, did not preclude the cessation of a pension, consideration of a 3<sup>rd</sup> tier within the LGPS was then an option.

10. In November 2007, interested parties were consulted on a reviewable third tier of ill health retirement benefit for a Scheme member who leaves employment because they are assessed by an independent occupational health practitioner as being permanently incapable of their current job but medical evidence indicates that they are capable of obtaining alternative employment within three years of their leaving.

### **Section 2 - Statutory position**

11. The regulatory provisions governing ill-health retirements under the LGPS with effect from 1 April 2008 are set out in regulations 20 and 31 of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (SI 2007 No 1166), as amended by The Local Government Pension Scheme (Amendment) Regulations 2008 (SI 2008 No 1083) :-

#### **A : Entitlement on ceasing employment :-**

“20.—(1) If an employing authority determine, in the case of a member who satisfies one of the qualifying conditions in regulation 5—

- (a) to terminate his employment on the grounds that his ill-health or infirmity of mind or body renders him permanently incapable of discharging efficiently the duties of his current employment; and
- (b) that he has a reduced likelihood of obtaining any gainful employment before his normal retirement age,

they shall agree to his retirement pension coming into payment before his normal retirement age in accordance with this regulation in the circumstances set out in paragraph (2), (3) or (4), as the case may be.

(2) If the authority determine that there is no reasonable prospect of his obtaining any gainful employment before his normal retirement age, his benefits are increased—

- (a) as if the date on which he leaves his employment were his normal retirement age; and
- (b) by adding to his total membership at that date the whole of the period between that date and the date on which he would have retired at normal retirement age.

(3) If the authority determine that, although he cannot obtain gainful employment within three years of leaving his employment, it is likely that he will be able to obtain any gainful employment before his normal retirement age, his benefits are increased—

- (a) as if the date on which he leaves his employment were his normal retirement age; and
- (b) by adding to his total membership at that date 25% of the period between that date and the date on which he would have retired at normal retirement age.

(4) If the authority determine that it is likely that he will be able to obtain any gainful employment within three years of leaving his employment, his benefits—

- (a) are those that he would have received if the date on which he left his employment were the date on which he would have retired at normal retirement age; and
- (b) unless discontinued under paragraph (8), are payable for so long as he is not in gainful employment.

(5) Before making a determination under this regulation, an authority must obtain a certificate from an independent registered medical practitioner qualified in occupational health medicine as to whether in his opinion the member is suffering from a condition that renders him permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition he has a reduced likelihood of obtaining any gainful employment before reaching his normal retirement age.

(6) A person who receives benefits under paragraph (4) shall—

- (a) inform the authority if he obtains employment; and
- (b) answer any inquiries made by the authority as to his current employment status, including as to his pay and working hours.

(7) (a) Once benefits have been in payment to a person for 18 months, the authority shall make inquiries as to his current employment.

- (b) If he is not in gainful employment, the authority shall obtain a further certificate from an independent registered medical practitioner as to the matters set out in paragraph (5).

(8) (a) The authority shall discontinue the payment of benefits under paragraph (4) if they consider—

- (i) that the person is in gainful employment; or
- (ii) in reliance on the certificate obtained under paragraph (7)(b), that he is capable of obtaining such employment

and may recover any payment made in respect of any period before discontinuance during which they considers him to have been in gainful employment.

- (b) The authority shall in any event discontinue the payment of benefits under paragraph (4) after they have been in payment to a person for three years.
- (c) The authority shall forthwith notify the appropriate administering authority of any action they have taken under this paragraph.

(9) A person in respect of whom the payment of benefits is discontinued under paragraph (8) shall be treated as a pensioner member with deferred benefits from the date the suspension takes effect, and shall not be eligible to receive benefits under paragraph (4) in respect of any future period.

(10) If a person in respect of whom the payment of benefits is discontinued under paragraph (8) subsequently becomes an active member of the Scheme, his earlier period of active membership in respect of which benefits were paid under paragraph (4) shall not be aggregated with his later active membership.

(11) (a) An authority which has made a determination under paragraph (4) in respect of a member may make a subsequent determination under paragraph (3) in respect of him.

(b) Any increase in benefits payable as a result of any such subsequent determination is payable from the date of that determination.

(12) (a) Subject to sub-paragraph (b) and to paragraph (13), in the case of a member in part-time service, the period to be added under paragraph (2)(b) or (3)(b), as the case may be, is calculated in accordance with regulation 7(3) as if he had remained in such part-time service until his normal retirement age.

(b) If the certificate obtained under paragraph (5) states that, in the medical practitioner's opinion, the member is wholly or partly in part-time service as a result of the condition that has caused him to be incapable of discharging efficiently the duties of the relevant local government employment, no account shall be taken of such reduction in his service as is attributable to that condition.

(13) But if, in the case of a person who is a member before 1st April 2008, and who has attained the age of 45 before that date, the period to be added under paragraph (2)(b) or (3)(b) is less than the period that would have been added had regulation 28 of the 1997 Regulations applied, then his benefits are increased by adding the latter period.

(14) In this regulation –

“gainful employment” means paid employment for not less than 30 hours in each week for a period of not less than 12 months;

“permanently incapable” means that the member will, more likely than not, be incapable until, at the earliest, his 65th birthday; and

“qualified in occupational health medicine” means—

(a) holding a diploma in occupational medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State; and for the purposes of this definition, “competent authority” has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualification) Order 2003(1); or

(b) being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State.

(15) Where, apart from this paragraph, the benefits payable to a member in respect of whom his employing authority makes a determination under paragraph (1) before 1st October 2008 would place him in a worse position than he would otherwise be had the 1997 Regulations continued to apply, then those Regulations shall have effect in relation to him as if they were still in force instead of the preceding paragraphs of this regulation.”

## **B : Entitlement after ceasing employment :-**

“31.—(1) Subject to paragraph (2), if a member who has left his employment before he is entitled to the immediate payment of retirement benefits (apart from this regulation) becomes permanently incapable of discharging efficiently the duties of that employment because of ill-health or infirmity of mind or body he may ask to receive payment of his retirement benefits immediately, whatever his age.

(2) Before determining whether to agree to a request under paragraph (1), an authority must obtain a certificate from an independent registered medical practitioner qualified in

---

(1) S.I. 2003/1250.

occupational health medicine as to whether in his opinion the member is permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body and, if so, whether that condition is likely to prevent the member from obtaining gainful employment (whether in local government or otherwise) before reaching his normal retirement age, or for at least three years, whichever is the sooner .

(3) In this regulation, “gainful employment”, “permanently incapable” and “qualified in occupational health medicine” have the same meaning as in regulation 20.”.

## **C : First instance determinations: ill-health :-**

**(Regulation 56 of The Local Government Pension Scheme (Administration) Regulations 2008. (“the Administration Regulations”) as amended by regulation 24 of the Local government Pension Scheme (Amendment) Regulations 2008).**

“56.—(1) An independent registered medical practitioner from whom a certificate is obtained under regulation 20(5) of the Benefits Regulations in respect of a determination under paragraph (2), (3) or (4) of that regulation (early leavers: ill-health) must be in a position to declare that—

(a) he has not previously advised, or given an opinion on, or otherwise been involved in the particular case for which the certificate has been requested; and

(b) he is not acting, and has not at any time acted, as the representative of the member, the employing authority or any other party in relation to the same case,

and he must include a statement to that effect in his certificate.

(2) If the employing authority is not the member’s appropriate administering authority, it must first obtain that authority’s approval to its choice of registered medical practitioner for the purposes of regulation 20 and 31 of the Benefits Regulations.

(3) The employing authority and the independent registered medical practitioner must have regard to guidance given by the Secretary of State when carrying out their functions under this regulation or, in the case of the employing authority, when making a determination under regulation 20 of the Benefits Regulations.”

## **Section 3 - General Guidance**

### **Part I - Role of the employer**

12. In the context of ill-health retirements, the role of local authority employers begins long before employment has been terminated and the question of entitlement to an ill-health retirement benefit arises. The management of ill-health in the work force and in particular, during the period leading up to termination, is outside the scope of this guidance. But it is covered in the “Management of Ill-Health Handbook” published by the Employers Organisation in 2002 and revised in 2007.

13. Under the former 1997 Scheme regulations, any question concerning entitlement to an ill-health retirement benefit could only be decided when a member's employment had been terminated on the grounds of permanent ill-health. This did not fetter the right of a local authority employer, the scheme member, medical advisers and other interested parties to commence proceedings beforehand. But in regulatory terms, the actual decision about entitlement and any appeal arising from the determination of that question could only have been made on or after termination. Concerns have been raised in the past about the effect that certain decisions made by the courts and the Pensions Ombudsman might have on this separation between the "termination of employment" and the "entitlement to pension benefit" question that has been part of the scheme's regulations for a considerable time. Regulation 20 has therefore been drafted to better reflect the practical reality that the medical processes should be completed prior to termination to enable the employer to decide whether or not to terminate a member's employment with an entitlement to an ill-health retirement pension.

14. As has always been the case, responsibility for deciding the grounds on which the employment of a scheme member has been terminated rests solely with the local government employer (Reg 20(1)). But under Regulation 20(5), a determination for the purposes of Regulation 20 can only be made where the authority has obtained a certificate from an independent registered medical practitioner ("IRMP") qualified in occupational health medicine. It is also important to note that all the regulations referred to in this guidance are subject to the civil law code. As such, the determination of questions is based on the "balance of probabilities" test and not on the stricter criminal law test of "beyond reasonable doubt".

## **Part II - Questions for the employer to determine**

15. Under Regulation 20, the appropriate LGPS employer is required to consider and decide a number of questions before entitlement to an ill-health retirement benefit under that regulation can be paid. These include :-

- Is the length of total membership at least three months (Regulation 5 (1)(a) and 20(1));
- Will the employment be terminated on the grounds that the member's ill-health or infirmity of mind or body renders him permanently incapable of discharging efficiently the duties of his current employment (Regulation 20(1)(a));
- Does the member have a reduced likelihood of obtaining gainful employment (whether in local government or elsewhere) before his normal retirement age (Regulation 20(1)(b)).

If the answers to all three questions are in the affirmative, there is a prima facie entitlement to payment of an ill-health benefit under Regulation 20. To

decide the level of benefit, the LGPS employer must further decide which of the following three situations applies :-

- Is there no reasonable prospect of the member obtaining gainful employment before reaching his NRA? In these circumstances, the member receives benefits based on his accrued rights up to the date of termination and enhancement equal to all his prospective service from that date to his NRA. (Regulation 20(2); or
- If the member is judged to be incapable of obtaining gainful employment within three years of leaving local government employment, but is likely to be able to do so before reaching his NRA, benefits equal to his accrued rights and enhancement of 25% of his prospective service to NRA will be awarded. (Regulation 20(3)), or
- If the member is judged to be capable of recovering sufficiently from his incapacity to enable him to be capable of obtaining gainful employment within three years of leaving local government employment, benefits equal to his accrued rights, with no enhancement, will be awarded. (Regulation 20(4)).

Additional questions concerning part time employment and the protection rights of certain members fall to be considered by virtue of Regulations 20(12), (13) and (15) respectively.

16. Under Regulation 31, an ill-health benefit can also be paid to a person who has left a local government employment with an entitlement to a deferred benefit, who becomes permanently incapable of discharging efficiently the duties of their former employment before becoming entitled to payment of that benefit. By virtue of regulation 31(2), the early payment of deferred benefits can only be made in circumstances where the IRMP has certified that the member's condition is likely to prevent him or her from obtaining gainful employment, whether in local government employment or elsewhere, before reaching his normal retirement age or for at least three years, whichever is the sooner. In other words, the deferred pensioner member would have to satisfy the criteria set out in regulation 20(2) or (3).

### **Part III - The role and status of the independent registered medical practitioner**

17. The introduction of the certification of ill-health retirements by an independent registered medical practitioner qualified in occupational health was one of the 35 recommendations made in the HM Treasury review. It was a feature of the 1997 scheme regulations for a number of years and is carried forward into the new scheme arrangements by virtue of Regulation 20(5). That regulation sets out the questions that the IRMP must address in his certificate but provisions relating to the doctor's conduct are in the Local Government Pension Scheme (Administration) Regulations 2008. In

particular, regulation 56(1) of those regulations, shown at Section 2, requires the IRMP to include a statement confirming his independent status in his certificate.

18. Regulation 20(14) of the Benefit Regulations defines what is meant by “qualified in occupational health medicine”.

#### **Part IV - Questions for the independent registered medical practitioner**

19. In many respects, these reflect the questions that the LGPS employer is ultimately responsible for deciding but it is important to bear in mind that the independent doctor is not being asked to confirm the termination or otherwise of the member’s employment. Under Regulation 20(5), the role of the IRMP is to certify whether or not, in his opinion, on the balance of probabilities, the criteria for entitlement to an ill-health benefit are satisfied in any individual case. On this basis, the questions to be considered by the IRMP doctor are :-

- is the member **permanently** incapable of discharging efficiently the duties of the relevant local government employment because of ill-health or infirmity of mind or body (**Regulation 20(5)**) and, if so –
- whether this has resulted in a reduced likelihood of **obtaining any gainful employment** and, if so :-
  - whether there is a reasonable prospect of his obtaining gainful employment within three years of leaving local government employment (**Regulation 20(5) when read in conjunction with Regulation 20(4)**); or if not,
  - Whether there is a reasonable prospect of his obtaining gainful employment before reaching his normal retirement age. (**Regulation 20(5) when read in conjunction with Regulation 20(3)**); or
  - Whether there is no reasonable prospect of his obtaining any gainful employment before his normal retirement age (**Regulation 20(5) when read in conjunction with Regulation 20(2)**).
- in the case of a member who is wholly or partly in part-time service, was this as a result of the condition that had caused him to be incapable of discharging efficiently the duties of the relevant local government employment. (Regulation 20(12(b)).
- Under regulation 20(8)(a)(ii), a third tier benefit may be discontinued if, at the 18 month review, the employer, based on the opinion of the certifying doctor, determines that the member is now capable of obtaining gainful employment. Under regulation 20(5), the certifying doctor is only asked to consider whether or not there is a reduced likelihood of obtaining gainful employment, but in the context of regulation 20(8)(a) and the definition of “reduced likelihood” in Part



V below, it is clear that a negative response to this question, ie, there is no reduced likelihood, means that the criterion of regulation 20(8)(a)(ii) is satisfied.

- By virtue of the protection offered by regulation 20(15), there will be a period up to 30<sup>th</sup> September 2008 inclusive when employers will need to consider a member's entitlement under both the current provisions of regulation 20 and the former ill-health provisions of the 1997 Scheme regulations. This does mean that, for a limited period, IRMPs will need to consider the permanency question both in relation to a member's actual local authority employment and any comparable employment for the purposes of regulation 27 of the former 1997 Scheme regulations. Under those regulations, the term "comparable employment" was defined as employment in which, when compared with the member's employment-

(a) the contractual provisions as to capacity either are the same or differ only to an extent that is reasonable given the nature of the member's ill-health or infirmity of mind or body; and

(b) the contractual provisions as to place, remuneration, hours of work, holiday entitlement, sickness or injury entitlement and other material terms do not differ substantially from those of the member's employment

20. It is important at this stage to highlight the fact that both regulations 20(1) and (5) restrict entitlement considerations to medical factors, but in slightly different ways. Although regulation 20(1) enables the authority to make an award where a member, amongst other things, "...has a reduced likelihood of obtaining any gainful employment", it is important to note that by virtue of the conjunctive "and" at the end of regulation 20(1)(a), any "reduced likelihood" for the purposes of regulation 20(1)(b) must be as a direct result of the permanent incapacity referred to in regulation 20(1)(a). On this basis, exogenous, non-medical factors such as the availability of gainful employment, are not relevant factors for the purposes of regulation 20(1). The same rule applies to regulation 20(5), except here, the relevant conjunctive is "and, if so, whether as a result of that condition".

### **Part V - Definitions**

21. At this stage, it is important that all parties are clear about the meanings behind the terms shown in bold above. Some of the examples given below expand on the definitions given in regulation 20(14), but others refer to words or phrases that are not defined but which merit explanation.

22. The term "**permanently incapable**" is defined in regulation 20(14) as meaning "that the member will, more likely than not, be incapable until, at the

earliest, his 65<sup>th</sup> birthday.” In addressing questions about permanency, whether in terms of the local government employment or gainful employment elsewhere, consideration must therefore be given not to the immediate or foreseeable future, but to the date when the member attains their NRA.

23. The term “**gainful employment**” is defined by Regulation 20(14) as “paid employment for not less than 30 hours in each week for a period of not less than 12 months”. This term is **not** to be confused with the concept of “comparable employment” which was a feature of the 1997 Scheme for a number of years. As from 1 April 2008, independent doctors will be required to apply the wider test of capacity to undertake general employment of a remunerative nature - rather than one based on the type of local government formerly held by the member. This reflects the recent change in government policy whereby public service ill-health pensions are to be paid not only on the basis of capacity to undertake the member’s actual employment, but also other employment in the general workforce.

24. “**Reasonable period**”. The level of benefits payable under regulation 20 depends on the extent of the “reduced likelihood” of obtaining gainful employment, taking account of the incapacitating condition that existed at the time when employment in local government ceased. Originally, the view was taken that the regulations should rely on the concept of a “reasonable period” to distinguish 2<sup>nd</sup> tier from 3<sup>rd</sup> tier cases. Several ways of defining that term were considered, including :-

- For administrative and medico-legal simplicity, the term “reasonable period” could refer to a specific period of time, eg, 12 months, regardless of the nature of the member’s condition or incapacity, or
- It could vary in each individual case according to the nature of the condition or incapacity in question. This would be likely to result in greater complexity and more pressure on the appeals process, or
- The period could relate to whatever time limit or review period is imposed under any third tier arrangement. In other words, the 2<sup>nd</sup>/3<sup>rd</sup> tier entitlement threshold would need to be clear and consistent.

25. In view of the representations made by interested parties, the decision was taken that any reference to a reasonable period should be to a fixed period of time, applied consistently across all cases. The regulations, therefore, provide for a limit of 3 years for payment of 3<sup>rd</sup> tier benefits. In other words, 3 years represents a “reasonable period” for the purposes of regulation 20.

26. **“Obtaining”**. In the context of regulations 20 and 31, the word “obtaining” may be taken to include the capacity of the individual in question to carry out gainful employment, taking into account the full medical effects of the condition which gave rise to the retirement on the grounds of permanent ill-health. In some cases, the condition may comprise certain barriers or impediments which may impact on the individual’s capacity to work again in gainful employment. For example, a person who is house-bound or unable to travel because of their condition, but is otherwise capable of carrying out gainful employment, is likely to have a reduced likelihood of obtaining gainful employment for the purposes of regulations 20 and 31. The regulations therefore allow for the possibility that certain individuals with a permanent incapacity, although theoretically having the capacity to carry out gainful employment, may not in practice be able to obtain it because of the full medical effects of their condition.

27. It follows that non-medical factors, such as the general availability of gainful employment in a particular area or the attitude of employers to certain conditions, would not be material factors and should not be part of the IRMP’s consideration, while the effect a medical condition would have on their practical ability to obtain gainful employment would. The same would apply to the individual’s own attitude towards their condition, which could be a limiting factor to obtaining gainful employment, although it is recognised that in some cases, their attitude may constitute a medical condition in itself.

28. **“Reduced likelihood”**. From the outset, the policy objective has always been to incentivise a return to work for those people forced to leave their local government employment because of ill-health but who are otherwise capable of carrying out a wide range of employment elsewhere. Regulation 20 does not therefore provide an ill-health retirement benefit to any member whose employment was terminated by reason of permanent health for the purposes of regulation 20(1)(a) but who, at that time, was judged to be capable immediately of obtaining gainful employment as defined in regulation 20(14). It follows that a 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> tier pension can only be awarded to a member whose likelihood of obtaining gainful employment, because of that permanent incapacity, is reduced.

## **Section 4 – The Regulations in practice**

### **Part VI – The first tier**

29. Regulation 20(2) provides for payment of a first tier ill-health retirement pension where :-

- The member has a qualifying period of at least 3 months (regulation 5);
- A certificate has been obtained under regulation 20(5),

- Based on that certificate, the employer has decided to terminate the member's employment on the grounds that ill-health or infirmity of mind or body renders them permanently incapable of discharging efficiently the duties of their current employment and, because of that condition, they have a reduced likelihood of obtaining any gainful employment before normal retirement age (regulation 20(1), and
- The authority determines that there is no reasonable prospect of the member obtaining any gainful employment before normal retirement age (regulation 20(2).

30. Where a first tier pension is awarded under regulation 20(2), the member's normal benefits are increased as if the date on which he left local government employment was his normal retirement age and by adding to the total membership at that date the whole of the prospective service up to normal retirement age. Regulation 20(12) makes provision for a different calculation in the case of a member in part-time service. A first tier pension is not subject to any review mechanism.

#### **Part VII – The second tier**

31. Regulation 20(3) provides for payment of a second tier ill-health retirement pension where the circumstances are the same as those described in the first three points in paragraph 29 above, and the employing authority determines it is likely that the member will become capable of obtaining gainful employment before their normal retirement age but where there is no reasonable prospect of this happening within three years of them leaving local government employment.

32. Where a second tier pension is awarded under regulation 20(3), the member's normal benefits are increased by adding to the member's total membership at the time of leaving, 25% of their prospective service to normal retirement - subject to the provisions of regulation 20(12) if the service in question was part-time. A second tier pension is not subject to any review mechanism.

#### **Part VIII – The third tier**

33. This provides that a member who is judged by an IRMP to be permanently incapable of their local authority employment but is capable of obtaining gainful employment within three years of leaving employment, is entitled to pension benefits equal to those he would have received if the date on which he left employment was the date on which he would have retired at normal retirement age.

## **Requirement to obtain a certificate from an Independent Registered Medical Practitioner qualified in occupational health medicine (IRMP)**

34. Regulation 20(5), requires an authority to obtain a certificate from an IRMP qualified in occupational health medicine.

## **Return to gainful employment**

35. The 3<sup>rd</sup> tier member is required to notify the previous employer when employment is found - providing details, including the pay and working hours of that employment. The employer considers the details regarding employment and, if they decide this is gainful employment according to the regulations, payments are stopped.

## **The Review mechanism**

36. Under regulation 20(7), the previous employer needs to undertake a review when 3<sup>rd</sup> tier payments have been made for 18 months. The employer should write to the 3<sup>rd</sup> tier member asking for details of their employment status. If, from the information provided, the employer decides that gainful employment had been obtained, the 3<sup>rd</sup> tier payments are stopped.

37. The employing authority is required to notify the appropriate administering authority without delay when payments are stopped. If payments have continued when gainful employment has been found, the employer has powers to recover any overpayment from the 3<sup>rd</sup> tier member. Regulation 20(8)(c) and (a) refer.

## **3<sup>rd</sup> tier member returns to local government employment**

38. Regulation 20(10), requires that when benefits are stopped and the 3<sup>rd</sup> tier member subsequently becomes an active member of the LGPS, the earlier period of membership which resulted in 3<sup>rd</sup> tier benefits is not aggregated with the later active membership.

## **Special considerations**

### **Member reduces their hours because of the ill health condition which results in ill health retirement**

39. Protection is given under regulation 20(12)(b) to any member who has a reduction in hours which directly relates to the ill health condition that resulted in termination of employment. In these circumstances, no account will be taken of the reduction in service for the purposes of calculating his benefits.

### **Treatment of those aged 45 before 1 April 2008 - 1<sup>st</sup> and 2<sup>nd</sup> tier determination**

40. Under regulation 20(13), protection is given for those aged 45 before 1 April where there is entitlement to an enhancement. This provides that the member should be in no worse a position than they would have been, had Regulation 28 of the 1997 Regulations applied.

#### **Status of member when payments cease**

41. The status of a 3<sup>rd</sup> tier member whose benefits are stopped is 'a pensioner member with deferred benefits', and he is not eligible to receive 3<sup>rd</sup> tier payments in respect of any future period. Regulation 20(9) refers.

#### **Seeking a further opinion from an IRMP**

42. If, as a result of the employer's enquiry at the review, it is found that a 3<sup>rd</sup> tier member has not found gainful employment, the employer is required by regulation 20(7)(b) to seek a further opinion from an IRMP concerning the condition which resulted in the 3<sup>rd</sup> tier membership.

#### **Employers' ability to uplift the 3<sup>rd</sup> tier member to a 2<sup>nd</sup> tier member following the review**

43. The employer can determine that a 3<sup>rd</sup> tier member becomes a 2<sup>nd</sup> tier member upon the certification by the IRMP following the review or at any time even if the payment of the 3<sup>rd</sup> tier benefit has been stopped. The employer must take the same steps when determining the 2<sup>nd</sup> tier concerning certification by an IRMP. The date of the second determination will decide the date from which the uplift to 2<sup>nd</sup> tier will be put into payment.

### **Part IX – General**

#### **Transitional protections**

44. Under regulation 20 (15), transitional protections apply for determinations made before 1 October 2008 to provide that if the benefits payable to a member under the amended Reg 20 would place him in a worse position than he would otherwise be had the 1997 Regulations continued to apply, then those Regulations shall apply as if they were still in force. For all practical purposes, Regulation 27 of the 1997 Regulations and Regulation 20 of the Benefits Regulations 2007, as amended, both remain in force in the transitional period.

This means that the employer needs to consider whether the employee would be entitled to ill health benefits under Regulation 20 of the benefit regulations as amended by the LGPS (Amendment) Regulations 2008. The employer also needs to consider whether the member is entitled to ill health benefits under the 1997 Regulations. A calculation of any benefits payable, under the two sets of regulations, is made and any enhancement of prospective service for both calculations is at the 1/60<sup>th</sup> accrual rate. A comparison should then be made and the member is awarded the greater amount.

Until the end of September 2008, the ill health certificate to be completed by the independent registered medical practitioner will need to include questions about whether the member would meet the ill health definition in the LGPS Regulations 1997 as well as ill health questions relating to the Benefits Regulations 2007 (as amended).

For example, in the transitional period, a member who qualifies for a 3<sup>rd</sup> tier pension and would also qualify for an enhancement of 6 2/3 under the 1997 Regulations, would receive a 1997 Regulation non reviewable, permanent pension with the enhancement calculated at 1/60<sup>th</sup> accrual.

### **Section 5 – Documentation**

45. The regulations themselves do not prescribe the precise format of the certificate that the independent registered medical practitioner is required to provide under Regulation 20(5), though the overall content is set out in the regulation itself. To assist practitioners in this process, examples of pro-forma certificates are included at **Annex A and B**. Individual authorities, in consultation with their medical advisers and IRMP, may wish to adapt the example to reflect local circumstances and procedures provided that the content complies fully with the scheme's regulatory requirements.

**Best Practice Pro-Forma certificates for employers/doctors**

***Example III Health Retirement Certificate for a Current Employee –  
England and Wales – for determinations made before 1 October 2008.***

**Certificate of permanent incapacity by an independent, approved, duly qualified registered medical practitioner in accordance with regulation 20 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) in respect of a current employee.**

**Part A: To be completed by the employer**

Surname of employee:

Forenames:

Mr / Mrs / Miss / Ms\*

Date of birth:

NI Number:

Home address:

Employer:

Place of work:

Nature of employment (job description attached):

Have the employee's contractual hours been reduced as a result of their ill health or infirmity or mind or body? Yes / No \*



(\*delete as appropriate)

**Part B: To be completed by the approved (1) registered medical practitioner. Please tick appropriate boxes.**

**In order that the employer can determine whether the “old” ill health test under the LGPS Regulations 1997 is met, please tick either B1 or B2**

I certify that, in my opinion, the person named in Part A

B1: IS       B2: IS NOT

on the balance of probabilities, permanently incapable (2) of discharging efficiently the duties of his / her employment or any other available comparable employment (3) with his / her employer because of ill health or infirmity of mind or body.

**In order that the employer can determine whether the “new” ill health test under the Benefits Regulations is met, please tick either B3 or B4**

I certify that, in my opinion, the person named in Part A

B3: IS       B4: IS NOT

on the balance of probabilities, permanently incapable (2) of discharging efficiently the duties of his / her employment with his / her employer because of ill health or infirmity of mind or body.

**If B3 has been ticked, please tick B5 or B6**

I certify that, in my opinion, as a result of that ill health or infirmity the person named in Part A

B5: DOES       B6: DOES NOT

have a reduced likelihood of being capable of obtaining other gainful employment (4), whether in local government or elsewhere, before age 65.

**If B5 has been ticked I further certify that in my opinion:**

B7: As a result of their ill health or infirmity, there is no reasonable prospect of the person named in Part A being capable of obtaining gainful employment (4) before age 65.

**OR**

B8: Although, as a result of their ill health or infirmity, the person named in Part A cannot obtain gainful employment (4) within the next three years he / she is likely to be capable of gainful employment (4) at some time thereafter and before age 65.

**OR**

B9: Having considered their ill health or infirmity, the person named in Part A is likely to be capable of obtaining gainful employment (4) within the next three years (or, if he / she attains age 65 within the next three years, the person is likely to be capable of obtaining gainful employment (4) before age 65).

**If B5 has been ticked and the contractual hours of the person named in Part A have been reduced by the employer (as indicated in Part A) please tick B10 or B11**

I certify that, in my opinion, the person named in Part A

B10: **IS**       B11: **IS NOT**

in part-time service wholly or partly as a result of the condition that has caused him / her to be permanently incapable of discharging efficiently the duties of his / her employment.

**General statement**

I certify that:

I have not previously advised, or given an opinion on, or otherwise been involved in this case

AND

I am not acting, and have not at any time acted, as the representative of the person named in Part A, the employer or any other party in relation to this case

AND

I hold a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State, which has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualification) Order 2003, or I am an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or of an equivalent institution in an EEA State

AND

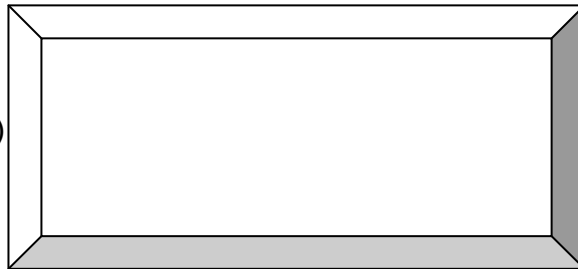
I have given due regard to any guidance issued by the Secretary of State when completing this certificate.

..... Date: .....

Signature of independent registered medical practitioner

.....  
Printed name of independent registered medical practitioner

On behalf of (use official stamp)



**Important notes:**

- (1) The independent registered medical practitioner signing the certificate must have been approved for this purpose by the Pension Fund administering authority.
- (2) 'Permanently incapable' means that the person will, more likely than not, be incapable until, at the earliest, their 65<sup>th</sup> birthday.
- (3) 'Comparable employment' means employment in which, when compared to the person's current employment
  - a) the contractual provisions as to capacity either are the same or differ only to an extent that is reasonable given the nature of the member's ill-health or infirmity of mind or body; and
  - b) the contractual provisions as to place, remuneration, hours of work, holiday entitlement, sickness or injury entitlement and other material terms do not differ substantially from those of the person's current employment.
- (4) 'Gainful employment' means paid employment (whether in local government or elsewhere) for not less than 30 hours in each week for a period of not less than 12 months. It does not have to be employment that is commensurate in terms of pay and conditions with that of the person's current employment.

***Example III Health Retirement Certificate for a Current Employee –  
England and Wales – for determinations made after 30 September 2008.***

**Certificate of permanent incapacity by an independent, approved, duly qualified registered medical practitioner in accordance with regulation 20 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) in respect of a current employee.**

**Part A: To be completed by the employer**

Surname of employee:

Forenames:

Mr / Mrs / Miss / Ms\*

Date of birth:

NI Number:

Home address:

Employer:

Place of work:

Nature of employment (job description attached):

Have the employee's contractual hours been reduced as a result of their ill health or infirmity or mind or body? Yes / No \*

(\*delete as appropriate)

**Part B: To be completed by the approved (1) registered medical practitioner. Please tick appropriate boxes.**

**Please tick either B1 or B2**

I certify that, in my opinion, the person named in Part A

B1: IS

B2: IS NOT

on the balance of probabilities, permanently incapable (2) of discharging efficiently the duties of his / her employment with his / her employer because of ill health or infirmity of mind or body.

**If B1 has been ticked, please tick B3 or B4**

I certify that, in my opinion, as a result of that ill health or infirmity the person named in Part A

B3: DOES

B4: DOES NOT

have a reduced likelihood of being capable of obtaining other gainful employment (3), whether in local government or elsewhere, before age 65.

**If B3 has been ticked I further certify that in my opinion:**

B5: As a result of their ill health or infirmity, there is no reasonable prospect of the person named in Part A being capable of obtaining gainful employment (3) before age 65.

**OR**

B6: Although, as a result of their ill health or infirmity, the person named in Part A cannot obtain gainful employment (3) within the next three years he / she is likely to be capable of gainful employment (3) at some time thereafter and before age 65.

**OR**

B7: Having considered their ill health or infirmity, the person named in Part A is likely to be capable of obtaining gainful employment (3) within the next three years (or, if he / she attains age 65 within the next three years, the person is likely to be capable of obtaining gainful employment (3) before age 65).

**If B3 has been ticked and the contractual hours of the person named in Part A have been reduced by the employer (as indicated in Part A) please tick B8 or B9**

I certify that, in my opinion, the person named in Part A

B8: IS       B9: IS NOT

in part-time service wholly or partly as a result of the condition that has caused him / her to be permanently incapable of discharging efficiently the duties of his / her employment.

**General statement**

I certify that:

I have not previously advised, or given an opinion on, or otherwise been involved in this case

AND

I am not acting, and have not at any time acted, as the representative of the person named in Part A, the employer or any other party in relation to this case

AND

I hold a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State, which has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualification) Order 2003, or I am an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or of an equivalent institution in an EEA State

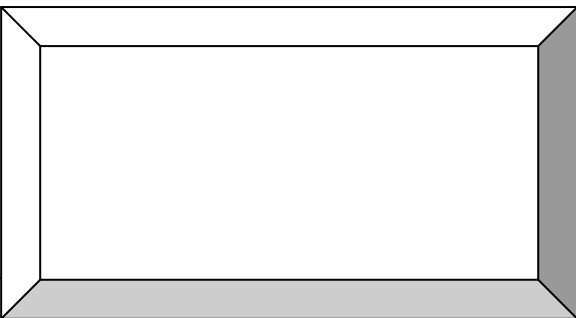
AND

I have given due regard to any guidance issued by the Secretary of State when completing this certificate.

..... Date: .....  
Signature of independent registered medical practitioner

.....  
Printed name of independent registered medical practitioner

On behalf of (use official stamp)



**Important notes:**

- (5) The independent registered medical practitioner signing the certificate must have been approved for this purpose by the Pension Fund administering authority.
- (6) 'Permanently incapable' means that the person will, more likely than not, be incapable until, at the earliest, their 65<sup>th</sup> birthday.
- (7) 'Gainful employment' means paid employment (whether in local government or elsewhere) for not less than 30 hours in each week for a period of not less than 12 months. It does not have to be employment that is commensurate in terms of pay and conditions with that of the person's current employment.

## Annex B

CERTIFICATE OF PERMANENT INCAPACITY BY AN INDEPENDENT, APPROVED, DULY QUALIFIED REGISTERED MEDICAL PRACTITIONER IN ACCORDANCE WITH REGULATION 20 OF THE LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP AND CONTRIBUTIONS) REGULATIONS 2007 (AS AMENDED) IN RESPECT OF A CURRENT EMPLOYEE

Part A: To be completed by the employer

Surname of employee:	Mr/Mrs/Miss/Ms:
Forenames:	Date of birth:
Home address:	NI number:
Employer:	Nature of employment:
Place of work: time*	Employment is whole-time* / part- (*delete as appropriate)

Part B: To be completed by the approved registered medical practitioner  
(please tick appropriate boxes)

I certify that, in my opinion, the above named person:

B1: **IS**       B2: **IS NOT**

permanently incapable of discharging efficiently the duties of his or her employment with his or her employer because of ill health or infirmity of mind or body.

If box B1 has been ticked the medical practitioner should indicate which one of the following (boxes B3 – B6) applies.

I certify that in my opinion, **as a result of that ill health or infirmity**, the above named person:

- B3: **DOES NOT HAVE** a reduced likelihood of being capable of obtaining gainful employment before age 65.
- B4: **HAS NO REASONABLE PROSPECT** of being capable of obtaining gainful employment before age 65
- B5: **IS UNLIKELY** to obtain gainful employment within the next three years but **IS LIKELY** to be able to do so at some time thereafter and before age 65
- B6: **IS LIKELY** to be capable of obtaining gainful employment within a reasonable period.

If box B4 or B5 has been ticked, and the above named person is (as indicated in Part A) in part-time employment, I certify that, in my opinion, the above named person:

B7: **IS**       B8: **IS NOT**



wholly or partly in part-time service as a result of the condition that has caused him or her to be incapable of discharging efficiently the duties of his or her employment

#### General statement

I certify that I am an independent, duly qualified registered medical practitioner approved by the Pension Fund administering authority to provide this certificate and that I have given due regard to any guidance issued by the Secretary of State when completing this certificate.

Signature of independent registered medical practitioner

Date

Name, address and qualifications of independent registered medical practitioner

#### Definitions

Independent, approved, duly qualified registered medical practitioner:

Independent: Has not previously advised, or given an opinion on, or otherwise been involved in the case, and is not acting, and has not at any time acted, as the representative of the member, the employer or any other party in relation to the case.

Duly qualified: Holds a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State, which has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualification) Order 2003, or an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or of an equivalent institution of an EEA State.

*(Ill health or infirmity of mind or body:*

*The ill health or infirmity must be a recognised medical condition as, for example, defined in the International Classification of Diseases or the Diagnostic and Statistical Manual of Mental Disorders.*

*NOTE: added on the basis that it might be a good idea to have a definition of what infirmity means – legal precedent exists for this definition)*

Gainful employment:

Any paid employment for not less than 30 hours in each week for a period of not less than 12 months. It does not have to be employment that is commensurate in terms of pay and conditions with the person's current employment.

Reasonable period:

The next three years or, if the person will attain age 65 within that time, before age 65.

Permanently incapable:

This means that the person will, more likely than not, be incapable until, at the earliest, their 65<sup>th</sup> birthday.

Ms N. Rochester  
Communities & Local Government,  
Zone 5/G6  
Elland House,  
Bressenden Place,  
London,  
SW1E 6DE

Our Ref: KG/III Health  
Your Ref:  
Direct Line: 0151 242 1354  
Please ask for: Kevin Greenough

Date: 7 August 2008

Dear Nicola,

**Local Government Pension Scheme  
Draft Statutory III Health Guidance**

I refer to the Department's letter dated 1 July 2008 and the draft Statutory III Health Guidance that was attached and submit the following technical comments on behalf of the Merseyside Pension Fund which is administered by Wirral Council.

It is noted that you request that comments should be based on the contents of the guidance and whether it reflects the requirements of the regulations, referring any questions on the actual regulations for consideration by the ill health monitoring group. You will of course appreciate that it is extremely difficult to comment on statutory guidance on the application of regulations without raising questions about the correct interpretation of the regulations themselves. The fact that the first edition of Question and Answers on ill health benefits has only been circulated by the Department today has also delayed the response.

The Fund notes and is concerned by the Department's comment that "the guidance and Q&A's note does not replace the Regulations and practitioners will want to seek their own legal advice as necessary". The Fund believes that as a matter of principle that the Regulations should be clearly and correctly drafted and contain sufficient information to apply them without the need to seek legal advice on their meaning and application except in exceptional circumstances.

Please find attached comments for your consideration.

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

Yours sincerely

**Director of Finance**

**MPF - Comments on Statutory Ill Health Guidance  
And Aide Memoire Edition 1**

- 1) Paragraph 35 details that a 3<sup>rd</sup> tier member is required to notify the previous employer when employment is found and the employer needs to consider whether what constitutes “gainful employment”. It is essential that in making this decision all employers act in a consistent and rational basis. The further guidance on this issued today **Q&A 32** is welcome, although the answer appears to confirm further complications for employers and gives employees opportunities to avoid being subject to the re-employment provisions. By ensuring either that they are under 30 hours per week or by having a break of a day or more between new short term employment contracts the employee will in many cases be able to avoid having the third tier pension suspended.
- 2) Paragraph 36 refers to a review being undertaken by the employer when 3<sup>rd</sup> tier payments have been made for 18 months.

Why is there no facility to allow the employer to carry out a medical review earlier than 18 months and potentially re-determine the case as tier 2 from that date if the conditions are satisfied then or to suspend the payment if the person is then found capable of gainful employment?

We believe that rather than relying on guidance or Q & A's (**Q&A 5**) there should be a regulatory requirement on employers to undertake a further medical review after 3 years before the 3<sup>rd</sup> tier payment ceases. This would be of great assistance in any subsequent appeals made by the individual.

- 3) Paragraph 43 - The Fund is concerned at the additional complication introduced into the Scheme for employers, that as well as having to carry out the normal tier 3 reviews and potentially greatly increased numbers of IDRPs ill health appeals, they will also be required to review a suspended tier 3 case on application by the former employee “**at any time**” up to NRD, with a view to re-determining the benefit payable as a tier 2 case with 25% enhancement up to NRD.
- 4) Paragraph 39 concerns protection for members who have had a reduction in hours due to the condition which has led to the ill health retirement. It would be helpful if the statutory guidance made it explicit that this protection applied to both the ill health enhancements and the actual service at reduced hours.

It would also be appreciated if the guidance could explain whether there is any implication on the final salary to be used if the membership is deemed to be whole time.

That is - should the individual be treated as a part-time employee and the final pay be pro-rated to the whole time equivalent, or are they to

be treated as whole time and their actual pay (at reduced hours apply)? For the majority of cases the protection on final pay given under Regulation 8 & 10 may suffice, however there may be cases where the reduced hours are in place for a period exceeding 10 years.

It would also be appreciated if the guidance could clarify whether this protection applies to any reduction in hours due to the medical condition or is restricted to only those reductions which take place after 1 April 2008 the date when these regulations come into effect.

- 5) Although not directly an ill health matter itself, it is also a consideration that the **benefits payable upon death in service** are based upon the entitlements available under Regulation 20. In such circumstances the provision of a certificate concerning the part-time protection signed by an approved medical officer as required by regulation 20(12) (b), may prove to be both problematic and distressful for the next of kin.

It would appear appropriate that for death in service cases that a decision by the employer based upon medical evidence available at the time the reduction in hours occurred may be sufficient. A comment on this within the statutory guidance would be welcome.

- 6) Paragraph 41 concerns the status of a member when the 3<sup>rd</sup> tier payment is discontinued. As a “pensioner with deferred benefits” it would be helpful if the guidance clarified when the benefit would again become payable either: -

- At age 60 with possible actuarial reduction (though new GAD factors may be required as the retirement grant element of pre April 2008 membership will have already been paid without reduction), or
- At age 65 without reduction, or
- Under the provisions of Regulation 31.
- Or if the person is subsequently determined to meet the criteria for payment of tier 2 benefits (Paragraph 43)

- 7) Paragraph 44 concerns transitional protections. As with the earlier comment regarding the application of regulation 20 in death cases, it would be most helpful if the guidance would confirm that any enhancements awarded under the provisions of regulation 20 (15) also applied to the **calculation of dependants pensions**.

Specifically would the pre April 2008 enhancements apply to a **nominated co-habiting partners benefits**? As nominated co-habiting partners are not recognised by the 1997 regulations under which the protected enhancements are awarded. It would be helpful if the guidance could also confirm whether protected benefits awarded under the 1997 regulations carry the 10 year death grant guarantee of the 2008 scheme, or the 5 year guarantee of the 1997 Regulations.

This page is intentionally left blank

**THE LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP AND CONTRIBUTIONS) (AMENDMENT) REGULATIONS 2008 (*benefit regulations*) as amended by the LGPS (AMENDMENT) REGULATIONS 2008**

**III Health benefits for LGPS Scheme members**

**Main questions answered**

This CLG aide-memoire is intended to help practitioners apply the new ill health LGPS regulations and supports the LGPS Ill Health Statutory Guidance. This note does not replace the regulations and practitioners will want to seek their own legal advice as necessary.

**Q. 1. Can ill health benefits be awarded if the member resigns?**

No. Ill health retirement benefits are only awarded when the employer terminates the member's employment on the grounds that the member's ill-health or infirmity of mind or body, renders him permanently incapable of discharging efficiently the duties of his current employment and the member has a reduced likelihood of obtaining gainful employment (whether in local government or elsewhere) before his normal retirement age (Regulation 20(1)(b)).

**3<sup>rd</sup> tier framework**

**Q2. Why is a 3<sup>rd</sup> tier needed?**

All local authority employees who are members of the LGPS and leave their current employment because they are permanently incapable of their current job and cannot work immediately after they leave their local government job, require an ill health provision.

The ill health regulations provide a pension for those local authority employees whose employer terminates their employment because they are permanently incapable of it but either cannot work again before normal retirement age or are unlikely to work again within 3 years of leaving (1<sup>st</sup> and 2<sup>nd</sup> tiers).

The 3<sup>rd</sup> tier provides a pension for a member whose employer terminates their employment because they are permanently incapable of their current job but are judged capable of obtaining gainful employment within 3 years.

**Q3. How is the 3<sup>rd</sup> tier benefit paid?**

This will be a pension made up of the member's accrued benefits to the point that they left their local authority job. There will also be a lump sum if the member has pre 1 April 2008 membership and/or opts to commute some pension to a lump sum.

### **The 3<sup>rd</sup> tier Review**

#### **Q4. Why is there a review for the 3<sup>rd</sup> tier?**

This benefit is an interim pension until the member returns to other work and is not payable if gainful employment is found. The 3<sup>rd</sup> tier member is required to inform the former employer if work is found and payments will stop if the employer considers that this is gainful employment as defined in the regulations. The employer needs to check the 3<sup>rd</sup> tier member's employment status where payments have continued for 18 months. Payments will stop if gainful employment has been obtained. If it is found that the member is not in gainful employment at the review, there is a requirement for the employer to check the latest medical position.

#### **Q5. How many times does the employer undertake a 3<sup>rd</sup> tier review?**

The employer is only required to undertake a review once when payments have continued for 18 months. The employer is not required to undertake a further review but they may decide to look at the case again in the light of the medical assessment at the review.

#### **Q6. Is there a review for the 1<sup>st</sup> and 2<sup>nd</sup> tiers?**

No

#### **Q7. Who does the review?**

The previous employer, or successor body, has to check the 3<sup>rd</sup> tier members' employment status if payments have continued for 18 months.

#### **Q8. Why does an employer need to ask about pay and working hours the member may have at the review?**

A 3<sup>rd</sup> tier member is not expected to work out themselves if they have obtained gainful employment as this is a matter for the employer. To help this process, the employer needs to know if the work obtained is actually paid employment and will need details of pay to check this. They also need to know how many hours the member is working each week and the terms of the contract so that they can establish whether gainful employment has been obtained as defined in Regulation 20 (14) of the benefits regulations ("gainful employment" means paid employment for not less than 30 hours in each week for a period of not less than 12 months).

#### **Q9. What happens if the person had obtained work when the employer conducts the review at 18 months?**

The employers must stop payments if the work obtained is 'gainful employment' as defined in the regulations ("gainful employment" means paid employment for not less



than 30 hours in each week for a period of not less than 12 months). The employer must notify the administering authority without delay that payments should be stopped.

**Q10. What happens if work was found some time before the 18 month review and the 3<sup>rd</sup> tier member failed to inform their previous employer?**

The employer has powers to recover any overpayment. The date of return to gainful employment will determine the date payments should be stopped. Any payment made beyond the date of return to gainful employment will be regarded as an overpayment and can be recovered by the employer. Recovered payments should be paid without delay to the relevant pension fund.

**Q11. If a 3<sup>rd</sup> tier member continues to be incapable of work at the point of the review, can benefits continue?**

Yes, in certain circumstances. A further medical judgement would be needed and where the medical assessment justifies this, an employer would be able to award the enhanced 2<sup>nd</sup> tier benefit from the date of the decision to award the 2<sup>nd</sup> tier, or continue 3<sup>rd</sup> tier payments based on that medical assessment or until three years after the date of leaving employment. Payments would, of course, cease if gainful employment was found.

**Q12. Can a 3<sup>rd</sup> tier member be considered for an enhanced retirement pension at the review?**

Yes. Legislation provides that an uplift from a 3<sup>rd</sup> tier to a 2<sup>nd</sup> tier pension can be considered either at the review or at some other stage but this must relate to the condition that resulted in the 3<sup>rd</sup> tier award.

**Stopping 3<sup>rd</sup> tier payments**

**Q13. Why are payments stopped after 3 years?**

The duration of three years is consistent with the eligibility criteria where a member is judged capable of obtaining gainful employment within three years or, not capable of obtaining gainful employment within three years, for the 3<sup>rd</sup> and 2<sup>nd</sup> tiers respectively. The intention of a 3<sup>rd</sup> tier pension is a short term benefit to provide financial assistance until such time as gainful employment can be, or is, found. It is not the intention that a member whose medical condition requires payments beyond three years, should remain a 3<sup>rd</sup> tier member and the employer has powers to consider an enhanced 2<sup>nd</sup> tier pension at the 3<sup>rd</sup> tier review. Even after 3<sup>rd</sup> payments have been stopped a further determination can be made under Regulation 20 (11) (a) where the original medical condition justifies this.

**Q14. Can 3<sup>rd</sup> tier payments be stopped regardless of whether a review has been undertaken or not?**

No. Not without a previous review by the employer at 18 months as there is a requirement for an employer to undertake a review where payments have continued

for 18 months. It follows, therefore, that while 3<sup>rd</sup> tier payments will stop at three years if they are continuing at that point, they cannot be stopped at any point up to the three year threshold without an earlier review.

**Q15. Does the employing authority have to notify the administering authority when payments stop?**

Yes and promptly. The employing authority must notify the administering authority without delay when 3<sup>rd</sup> tier payments need to be stopped giving the reason i.e. that gainful employment has been found, or after the review when the member remains capable of gainful employment within three years, or when the payments need to stop because they have been paid for three years.

**Certain protections for members**

**Q16. What if they leave their job on ill health grounds and are over aged 45?**

For a person judged eligible for a 1<sup>st</sup> or 2<sup>nd</sup> tier enhancement, an employer will calculate the benefits under both the 1997 and the amended 2007 ill health regulations and the enhancement of prospective service for both calculations is at the 1/60<sup>th</sup> accrual rate. They will make a comparison of the calculations, and award benefits that are the greater of the two.

**Q17. What about cases currently being considered where there may be uncertainty about which regulations would apply?**

Under regulation 20 (15), transitional protections apply for determinations made before 1 October 2008 (even if the actual termination date is after 1 October) to provide that if the benefits payable to a member under the amended Reg 20 would place him in a worse position than he would otherwise be had the 1997 Regulations continued to apply, then those Regulations shall apply as if they were still in force. For all practical purposes, Regulation 27 of the 1997 Regulations and Regulation 20 of the Benefits Regulations 2007, as amended, both remain in force in the transitional period.

This means that the employer needs to consider whether the employee would be entitled to ill health benefits under Regulation 20 of the benefit regulations as amended by the LGPS (Amendment) Regulations 2008. The employer also needs to consider whether the member is entitled to ill health benefits under the 1997 Regulations. A calculation of any benefits payable, under the two sets of regulations, is made and any enhancement of prospective service for both calculations is at the 1/60<sup>th</sup> accrual rate. A comparison should then be made and the member is awarded the greater amount.

Until the end of September 2008, the ill health certificate to be completed by the independent registered medical practitioner will need to include questions about whether the member would meet the ill health definition in the LGPS Regulations 1997 as well as ill health questions relating to the Benefits Regulations 2007 (as amended).

For example, in the transitional period, a member who qualifies for a 3<sup>rd</sup> tier pension and would also qualify for an enhancement of 6 2/3 under the 1997 Regulations,

would receive a 1997 Regulation non reviewable, permanent pension with the enhancement calculated at 1/60<sup>th</sup> accrual.

**Q18. If a member receives a retirement pension based on the 1997 regulations in the transitional period to 30 September 2008, but would have been entitled to a 3<sup>rd</sup> tier pension under the 2007 amended regulations, would their payments be reviewed?**

No. The 1997 ill health regulations apply in all respects and there is no review.

**Q19. Could a member joining post 1 April who has an ill health determination before 1 October, be eligible for an ill health award under the 1997 regulations?**

Yes, if the qualifying period is satisfied. The 1997 regulations apply as if they are in force during the transitional period.

**Q20. What if the person has to reduce their hours just before they leave work on ill health grounds?**

- answer to follow -

**Q21. What happens to a member who has always been employed part-time because of an existing ill health condition and is being considered for ill health retirement because of that ill health condition?**

- answer to follow -

**Need for Certification by Independent Registered Medical Practitioner qualified in occupation health medicine**

**Q22. Do all decisions regarding an ill health pension need a certification by an independent registered medical practitioner qualified in occupational health?**

Yes, this includes decisions for those who have already left local government and are asking for early release of their pension. Regulation 31 of the *benefits regulations* requires this.

**Q23. Can the independent doctor who made the medical assessment that resulted in a 3<sup>rd</sup> tier award, undertake the second medical assessment at the 18 month review if asked to do so by the employing authority?**

Yes. The same doctor can sign the certificate that resulted in the first determination and at the 3<sup>rd</sup> tier review. This is because the provision to obtain a further certificate from the IMRP is under regulation 20(7)(b) which means that 56(1) of the LGPS administration regulations does not apply. There is, effectively, no requirement that the IRMP has to be able to certify at a 3<sup>rd</sup> tier review that they have not previously advised, given an opinion on, or otherwise been involved in the case.

**Q24. Can a 3<sup>rd</sup> tier member whose payments have stopped ask for pension payments to resume if it relates to the condition that resulted in a 3<sup>rd</sup> tier award?**

Yes, in certain circumstances but there is no future entitlement to 3<sup>rd</sup> tier payments. Regulation 20 (11) (a) permits a determination for a 2<sup>nd</sup> tier pension relating to the condition that resulted in 3<sup>rd</sup> tier payments subsequently merits such an award, and this is not time limited. A former 3<sup>rd</sup> tier member can apply for reconsideration of ill health payments and the employer will be required to seek a further independent medical assessment. Where the medical condition justifies it, the employer can agree to an enhanced 2<sup>nd</sup> tier retirement pension from the date of the 2<sup>nd</sup> tier determination.

### **Other relevant issues**

**Q25. Would a lump sum be payable again if a further determination to a 2<sup>nd</sup> tier pension is made?**

No. A 3<sup>rd</sup> tier member whose benefits have stopped is a pensioner member with deferred benefits and, therefore, any future entitlement to retirement benefits would be a resumption of payments with an addition of a top up payment equivalent to 25% of their prospective service to normal retirement.

**Q26. Can a 3<sup>rd</sup> tier member with suspended benefits ask for release of retirement benefits under Regulation 31 of the *benefits regulations* for an unrelated condition?**

Yes. A 3<sup>rd</sup> tier pensioner member with deferred benefits is not precluded from applying under Regulation 31 as a result of a medical condition unrelated to the condition that resulted in 3<sup>rd</sup> tier payments, as the entitlement in Regulation 16 (1) would apply. A 3<sup>rd</sup> tier member, whose payments have been stopped, is precluded from resumed 3<sup>rd</sup> tier payments under regulation 20 (9). If the 3<sup>rd</sup> tier pensioner member was asking for release of suspended benefits as a result of the condition that resulted in the 3<sup>rd</sup> tier payment, an employer should consider whether there is eligibility for a 2<sup>nd</sup> tier pension under Regulation 20 (11) (a).

**Q27. From what date does the administering authority make any payments payable under Regulation 31?**

The member should notify the relevant employing authority that they want benefits to be released under regulation 31. The employing authority is required to obtain a certificate from an IMRP regarding the member's condition and whether it renders the member permanently incapable of their former local authority employment and whether they have a reduced likelihood of gainful employment (ie would now meet the qualifying test for tier 1 or 2 of Regulation 20). The employer should notify the administering authority to release benefits from the day the member asked or elected for these payments to be made if the medical condition justifies this.

**Q28. Can a 3<sup>rd</sup> tier member be uplifted to the enhanced 2<sup>nd</sup> tier with a condition other than that which resulted in the ill health retirement?**

No. The regulations are quite clear that it is the initial condition resulting in an ill health 3<sup>rd</sup> tier payment that should be considered when assessing a possible uplift to a 2<sup>nd</sup> tier pension.

**Q29. Can the employee return to local authority work?**

They are not expected to return to their previous job but could obtain another job in local government.

**Q30. If a 3<sup>rd</sup> tier member returns to local government employment can the earlier membership resulting in a 3<sup>rd</sup> tier pension be aggregated with the new period of membership?**

No. Regulation 20(10), requires that when benefits are stopped and the 3<sup>rd</sup> tier member subsequently becomes an active member of the LGPS, the earlier period of membership which resulted in 3<sup>rd</sup> tier benefits is not aggregated with the later active membership.

**Q31. What happens if the member is unhappy with the employer's decision about an ill health retirement application?**

A member, who has left local government employment but was not awarded an ill health retirement pension, can appeal against this decision by writing to the employing authority who made the decision and setting out the reasons for their disagreement with the decision, in accordance with Regulation 58 of the LGPS (Administration) Regulations 2008. Any appeal against the decision of the employing authority is required within 6 months of the date of the original decision.

**Q32. The 3<sup>rd</sup> tier member has written to the former employer saying that they have a short term contract. How does the employer decide if the member has satisfied the gainful employment test?**

It would be unreasonable for an employer to assume that a person is in gainful employment having notified them that they have just entered a short term contract of employment for, say, six months. Whether that contract will be renewed or not, would be pure conjecture and should not, therefore, fall to be considered. Even if a 3<sup>rd</sup> tier member had served two months of the six month contract, it follows that the definition of gainful employment has not been satisfied. Neither would it be reasonable to make any assumption that four months on, the contract might be reviewed for a further six months which could arguably bring it within the gainful employment definition.

A sensible way of proceeding would be to say that regulation 20(6)(a) would apply where notification was given that a short-term contract was renewed. Given that the first six month contract had already been served, and the new contractual requirement to work another 6 months had been entered into, it would be reasonable for the employer to take the view that the 12 month "gainful employment" period has been satisfied from the date of the new contract. In other words, taking short term contracts to try and avoid the 3<sup>rd</sup> tier pension being suspended may work in the short time, but once the total of the individual contracts spans a continuous 12 month

period, the definition of gainful employment would appear to be satisfied. The employer will wish to ask the 3<sup>rd</sup> tier member to let them know their employment status at the end of the period of the first short term contract.

The contract should stipulate the hours of employment and this should be straightforward if these are 30 or more in each week. Under some contracts, the hours may be variable and this may cause some difficulty in deciding whether, over the future, the 30 hour test is satisfied over a 12 month period. If employment was obtained some time ago, it should be possible to ascertain a pattern of working from the variable hours worked up to that point and to base a decision on that evidence. A better way forward would be to defer any decision until later in the employment when evidence about working hours has been established.

The view is also taken that the words “in each week” where they appear in the definition of “gainful employment” in regulation 20(14) means in each week throughout the 12 month period, rather than in each week where there is a contract of employment. Otherwise, the definition would be satisfied by a person taking just a one month contract of employment for 35 hours a week.

### **Q33. What happens if a member has an ‘added years’ contract?**

Regulation 83 of the 1997 Regulations has been retained by the LGPS (Transitional Provisions) Regulations 2008. This means that a person with an added years contract will be deemed to have completed the purchase of the added years if they meet the definition of ill health retirement under regulation 27 of the 1997 Regulations. Therefore,

a) a member who meets the 1997 Regulations ill health definition but not the 2008 benefits regulation 20 definition, will get the added years contract bought out even though they will not be entitled to an ill health pension under the benefits regulations.

b) a member who does not meet the 1997 Regulations ill health definition but does meet the new definition in the benefits regulations will not get the added years contract bought out but will be entitled to an ill health pension under the benefits regulations

### **Q34. What happens if a member is paying Additional Regular Contributions (ARCs)?**

- answer to follow -

### **Q35. Can a member receive his retirement benefits without retiring on ill health grounds if he is over 60 but would have been a 3<sup>rd</sup> tier member?**

It is the employer who has to determine the reason for leaving. An employer may wish to consider not retiring the member on ill health grounds and, especially where protections permit the early release of unreduced retirement benefits, retire the employee under normal retirement.

### **Q36. What death grant is payable in respect of a 3<sup>rd</sup> tier pension?**

If a 3<sup>rd</sup> tier member dies (either while in receipt of the 3<sup>rd</sup> tier pension or the 3<sup>rd</sup> tier pension is suspended), a death grant is payable under Regulation 35 of the benefits regulations. This would be 10 times the pension in payment (or the pension that would have been in payment but for the suspension) less the amount that has already been paid.

**Q37. What do the terms mean in the regulations?**

Unless defined in the scheme's regulations, words, terms and phrases are to be given their normal and everyday meaning, except where clarification or an explanation is given in the ill health statutory guidance.

Workforce, Pay and Pensions  
August 2008

This page is intentionally left blank



## WIRRAL COUNCIL

### PENSIONS COMMITTEE

29 SEPTEMBER 2008

### REPORT OF THE DIRECTOR OF FINANCE

#### GOVERNANCE COMPLIANCE

##### 1. EXECUTIVE SUMMARY

- 1.1. This report provides details of the result of further consultation undertaken with pensioners and deferred pensioners on the governance of the Merseyside Pension Fund and of the publication of further draft statutory guidance on governance compliance issues by the Department for Communities and Local Government (DCLG).
- 1.2. Members are recommended to confirm that the current arrangements for employee representation with observer status be retained and, with the agreement of the relevant trade unions be formally extended to cover representation of pensioners and deferred members.
- 1.3. That any requests for additional employer representation on the Pensions Committee be considered on an individual basis taking into account all the circumstances of the application.

##### 2. BACKGROUND

- 2.1. The Pensions Committee previously considered this matter on 28 January 2008 (Minute 79 refers) when I reported that the DCLG had issued draft statutory guidance on governance compliance. Under Regulation 73A of the LGPS Regulations 1997 Administering Authorities were required to publish a statement of their compliance against the best practice principles laid down in statutory guidance by the 1 March 2008 although the final version of the statutory guidance had not then been issued.
- 2.2. The Pensions Committee was informed that although Merseyside Pension Fund is compliant with the majority of the draft statutory guidance it does not fully comply in the following areas: -
  - Confirmation of arrangements for representation for pensioner and deferred members.
  - Consolidated documentation to ensure Members of the Pensions Committee are fully aware of the status, role and function they are required to perform.
  - Documentation on the policy of voting rights for Committee Members including justification for any restrictions.
  - Documentation on the policy for training, facility time and reimbursement of expenses for all Members of the Committee.

- 2.3 Further work is required to produce documentation which clearly sets out the existing policy on training, and the status and role of Committee Members. Other issues still to be addressed in order to be able to demonstrate full compliance are confirmation of arrangements for representation of pensioner and deferred members and the justification for any restrictions on voting rights.
- 2.5. The Committee has previously agreed provision for three employee representatives nominated by trade unions who currently have observer status (without voting rights). In order to achieve full compliance the following matters need to be addressed: -
- Whether it would be appropriate and whether the employee representatives would be prepared to accept that their role should encompass representation for pensioner and deferred members, and
  - Further consideration to be given to whether voting rights should be extended to employee representatives, and the justification for not doing so if voting rights are withheld.
- 2.6 It was agreed that a consultation exercise of stakeholders be undertaken to seek views on the issues raised by the draft statutory guidance.

### 3. **CONSULTATION UNDERTAKEN AND RESULTS**

- 3.1. On 3 December 2007 Employers and Trade Union Representative were sent a request via e-mail to comment upon the draft governance arrangements and the preliminary statement of compliance by MPF. The closing date for responses was 4 January 2008 in order to present the results to the 28 January 2008 meeting of the Pensions Committee.
- 3.2 Only two responses were received, from Sefton Council and Merseyside Probation Board. These responses are summarised as follows: -

#### **I. SEFTON COUNCIL**

**STRUCTURE:** That Local Authority representation on the Pensions Committee should be more aligned to the total membership of each individual authority.

**REPRESENTATION:** Accepts that pensioner and deferred members could be accommodated by active scheme member representative. Sefton also accepts that a seat could be offered to a representative for the Education Sector as a whole.

Sefton supports the suggestion of an independent professional “observer” with voting rights.

It should be noted that in connection with the Sefton Council suggestion of an independent professional observer with voting rights the Local Government Employers organisation in its response to the draft statutory guidance dated 12 November 2007 takes the view that: - "It may be that the role of an independent professional adviser would sit more comfortably within the Investment Regulations in terms of the need to seek proper advice"

The Investment Monitoring Working Party currently receives advice from two independent professional advisers

## **II. MERSEYSIDE PROBATION BOARD**

Whilst having no definite view on the subject believes that representation for pensioner and deferred members may be more useful at a separate meeting or extension of the annual conference.

- 3.3 Given such a small and limited response it was agreed to defer consideration of the above suggestions until consultation with pensioners and deferred members had taken place.
- 3.4 The Pension Fund has subsequently canvassed the views of its pensioners and deferred members on Governance matters via articles in the Beeline and Honey Pot newsletters. No views, comments or questions were received concerning Governance of the Fund from any of the 38,000 pensioners or 26,000 deferred members.
- 3.5 A separate request has since been received from one of the employers the bus company Arriva, which is an admission body, for representation on the Pensions Committee and this request is the subject of a separate report to the Committee.
- 3.6 The DCLG issued a further set of Draft Governance Compliance Statutory Guidance (Version II) under cover of its letter dated 21 July 2008 (Appendix 1 attached). There are no significant changes from the previous version of the guidance issued. The letter confirmed that the original 1 March 2008 deadline for publication of the Governance Compliance statement had been postponed until 1 August 2008 and this has now been postponed again to 1 November 2008.
- 3.7. MPF and a significant number of other administering authorities have already submitted compliance statements to the DCLG based on the original draft guidance and there is no requirement to submit a further statement now unless a change in Governance arrangements is agreed.

## **4. FINANCIAL IMPLICATIONS**

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

**5. STAFFING IMPLICATIONS**

5.1. There are none arising from this report.

**6. EQUAL OPPORTUNITY IMPLICATIONS**

6.1. There are none arising from this report.

**7. COMMUNITY SAFETY IMPLICATIONS**

7.1. There are none arising from this report.

**8. HUMAN RIGHTS IMPLICATIONS**

8.1. There are none arising from this report.

**9. PLANNING LOCAL AGENDA 21 IMPLICATIONS**

9.1. There are none arising from this report.

**10. LOCAL AGENDA 21 IMPLICATIONS**

10.1. There are none arising from this report.

**11. MEMBER SUPPORT IMPLICATIONS**

11.1. There are none arising from this report.

**12. BACKGROUND PAPERS**

12.1. LGPS Governance Compliance Statements Statutory Guidance – DCLG July 2008.

**13. RECOMMENDATIONS**

13.1. That having regard to the results of the consultation undertaken with stakeholders the Committee confirms that the current arrangements for employee representation with observer status be retained and with the agreement of the relevant trade unions be formally extended to cover representation of pensioners and deferred members

13.2. That requests for additional employer representation on the Pensions Committee be considered on an individual basis taking into account all the circumstances of the application.

IAN COLEMAN  
DIRECTOR OF FINANCE

21 July 2008

To addressees shown below

Our Ref:  
Your Ref:

Dear Colleague,

**THE LOCAL GOVERNMENT PENSION SCHEME  
GOVERNANCE COMPLIANCE STATEMENTS: STATUTORY GUIDANCE**

1. With Ministers' agreement, I enclose for your comments, draft statutory guidance to be issued for the purposes of regulation 31(3)(c) of The Local Government Pension Scheme (Administration) Regulations 2008 ("the administration regulations"). Your comments on the attached draft guidance are invited no later than 5th September 2008.

**Background**

2. On 30<sup>th</sup> June 2007, a new regulation 73A was added to The Local Government Pension Scheme Regulations 1997 to require LGPS administering authorities to prepare, publish and maintain, statements of compliance against a set of best practice principles on scheme governance and stewardship. With effect from 1<sup>st</sup> April 2008, this requirement is carried forward into the new scheme regulations by virtue of regulation 31 of the administration regulations. Under regulations 73A(1)(c) and 31(3)(c) of the 1997 and administration regulations respectively, these principles are to be set out in statutory guidance issued by CLG.

3. In November last year, a draft version of the statutory guidance was circulated to interested parties whose comments have since been considered and, where appropriate, incorporated into the copy attached. For ease of reference, alterations to the previous version are shown in blue text. The opportunity has also been taken to reflect the views expressed by key stakeholders in response to a series of questions about scheme governance and stewardship, in particular, the role and responsibilities of elected members and the duty of care they owe to scheme beneficiaries, posed by CLG in April 2008. A summary of this exercise is being prepared and a copy will be posted on the [www.xoq83.dial.pipex.com](http://www.xoq83.dial.pipex.com) web site shortly.

4. A significant number of administering authorities have already submitted their compliance statements to CLG based on the draft guidance issued last year. At this stage, there is no intention to amend any of the best practice principles themselves which might require authorities to prepare and submit a second statement reflecting their compliance against the revised principles. The main changes in the attached version compared to the one issued last year (shown in blue text), therefore relate to the narrative in the guidance and, in particular, clarification of some of the concepts upon which the principles are based.

### **Timing**

5. Although the 1997 regulations required publication of these statements by 1<sup>st</sup> March 2008, in May this year, we informed interested parties that this would be delayed until 1<sup>st</sup> August to enable authorities to complete their statements on the basis of final, rather than draft statutory guidance. But in response to that change, a number of authorities have expressed the concern that the revised date is out of step with the cycle of their committee meetings and on this basis, it has been decided that the next set of miscellaneous scheme amendments will include a provision incorporating a new publication deadline of 1<sup>st</sup> November 2008. It is hoped, however, that authorities will be able to submit their statements as soon as possible before that date to enable us to commence work on summarising the results at the earliest opportunity.

### **General**

6. It is appreciated that some authorities and representative bodies may wish to discuss or raise questions about the draft guidance before submitting their responses. If there are sufficient numbers, CLG will be prepared to chair a meeting at some stage during the consultation period so that concerns raised by interested parties can be discussed. Alternatively, individual queries can be sent to CLG, preferably by e-mail, where either myself or Margaret Dunleavy will do our best to reply.

### **Responses**

7. Responses and any initial queries should be sent to Margaret Dunleavy, Workforce Pay and Pensions Division, Communities and Local Government, Zone 5/F8, Eland House, Bressenden Road, London SW1E 6DU (tel ; 020 7944 6012) or e-mail [margaret.dunleavy@communities.gsi.gov.uk](mailto:margaret.dunleavy@communities.gsi.gov.uk).

8. The Department may wish to publish responses to this consultation in due course, or deposit them in the libraries of the Houses of Parliament or the Department's library, unless we are asked specifically to treat a response as confidential. Confidential responses will be included in any published statistical summary of comments received and views expressed.

Yours sincerely

**BOB HOLLOWAY**

## **ADDRESSEES**

### **The Chief Executive of:-**

County Councils (England)  
District Councils (England)  
Metropolitan Borough Councils (England)  
Unitary Councils (England)  
County and County Borough Councils in Wales  
London Borough Councils

South Yorkshire Pensions Authority  
Tameside Metropolitan Borough Council  
Wirral Metropolitan Borough Council  
Bradford Metropolitan City Council  
South Tyneside Metropolitan Borough Council  
Wolverhampton Metropolitan Borough Council  
Middlesborough Council  
London Pensions Fund Authority  
Environment Agency.  
Town Clerk, City Of London Corporation  
Clerk, South Yorkshire PTA  
Clerk, West Midlands PTA

### **The Secretaries of:-**

Local Government Association  
LGPC  
SOCPO  
SOLACE  
ALACE  
CIPFA  
New Towns Pension Fund  
Trades Union Congress  
UNISON  
TGW  
GMB  
MPO  
Audit Commission  
UCEA

### **The Secretaries of:-**

Investment Management Association (IMA)  
Association of British Insurers (ABI)  
National Association of Pension Funds (NAPF)

London Investment Banking Association (LIBA)  
Financial Services Authority (FSA)

Society of County Treasurers

Society of London Treasurers  
Society of Welsh LA PF Treasurers  
CIPFA (Scotland)  
Strathclyde Pension Fund  
Melton Borough Council

PIRC  
LAPFF  
Hymans Robertson  
Legal & General  
Hermes Focus Asset Management Ltd  
Northern Global Trust Advisors Ltd

**Government Departments:-**

GAD  
DOE (NI)  
SPPA



# DRAFT GOVERNANCE COMPLIANCE STATUTORY GUIDANCE – VERSION II – JULY 2008

## PART I

### INTRODUCTION

1. This guidance is issued to all administering authorities in England and Wales with statutory responsibilities under the [Local Government Pension Scheme \(“LGPS”\)](#) and other interested parties listed at Annex B. It deals with the compliance standards against which [LGPS administering authorities](#) are to measure their [governance arrangements](#).
2. The guidance includes a combination of descriptive text explaining the rationale of each compliance principle, [and also](#) a description of the relevant statutory provision of [The Local Government Pension Scheme \(Administration\) Regulations 2008 \(“the 2008 regulations”\)](#) (Regulation 31 refers), and its predecessor, [regulation 73A of The Local Government Pension Scheme Regulations 1997 \(as amended\)](#), that requires LGPS administering authorities to measure their governance arrangements against the standards set out in this statutory guidance. Where compliance does not meet the published standard, there is a requirement under Regulation [31\(3\)\(c\)](#) to give, in their governance compliance statement, the reasons for not complying.
3. The Secretary of State will keep the content of the guidance under review in the light of administering authorities and other interested parties’ experience of applying the best practice standards. The guidance will be updated as necessary to reflect this and subsequent legislative changes.

### BACKGROUND

4. The LGPS is a common scheme throughout England and Wales, administered by 89 individual pension funds, which includes the Environment Agency. In the context of the UK public pensions sector, it is atypical in being funded with assets in excess of £100bn. Viewed in aggregate, the LGPS is the largest funded occupational pension scheme in the UK.
5. As a statutory public service scheme, the LGPS has a different legal status compared with trust based schemes in the private sector. Matters of governance in the LGPS therefore need to be considered on their own merits and with a proper regard to the legal status of the scheme. This includes how and where it fits in with the local democratic process through local government law and locally elected councillors who have the final responsibility for its stewardship and management. The LGPS is also different in the respect that unlike most private sector schemes [where the accrued benefits payable to members are always subject to the risk of scheme under-performance or even failure](#), the accrued benefits paid by local authorities are [established and payable according to statute and underpinned from local authority revenue and not the pension funds themselves](#). [In simple terms, the pension funds exist to defray the pension costs incurred by the local authority](#) . On this basis, it is the

local authority itself, and local council tax payers, who bear the financial and investment risks of the scheme.

6. The word “trustee” is often used in a very general sense to mean somebody who acts on behalf of other people but in pensions law it has a more specific meaning. Most occupational pension schemes, primarily in the private sector, are established under trust law. Under a trust, named people (trustees) hold property on behalf of other people (beneficiaries). Trustees owe a duty of care to their beneficiaries and are required to act in their best interests, particularly in terms of their investment decisions. Although those entrusted to make statutory decisions under the LGPS are, in many ways, required to act in the same way as trustees in terms of their duty of care, they are subject to a different legal framework, which derives from public law. In particular, local authority councillors are subject to all the normal duties and responsibilities that come with their office. But they are not trustees in the strict legal sense of that word.

7. Trustees of private sector schemes ensure better scheme security, prevent employer-led actions which could undermine a scheme’s solvency and seek to ensure that investment and other decisions are both prudent and fair. While the public law framework applying to LGPS schemes will require similar standards of behaviour and practice by members of pension committees, who in this respect also fulfil a fiduciary role, a key distinction to be made is that LGPS benefits are established and paid under statute. Administering authorities are therefore subject to a statutory obligation that they are required to meet, irrespective of their scheme’s investment performance or general funding position. As such, scheme members in the LGPS are not subject to the same type of benefit risk as those in trust-based pension schemes. The entitlements and benefits payable to scheme members in trust based schemes are, potentially at least, more volatile and dependent ultimately on the effectiveness and stewardship of their trustees working as they must under the constraints of the employers’ overall covenant standing behind the scheme. This perceived risk to security was the main motivation for the inclusion of the member-nominated trustee provisions in the Pensions Act 1995 as a result of which the principle that scheme beneficiaries should be part of the decision making process became established. But even member nominated trustees must act in the interest of the beneficiaries and must not take decisions out of self-interest or because they have in mind a particular agenda. The Pensions Act 2004 simply extends that status.

8. On the one hand, elected councillors have legal responsibilities for the prudent and effective stewardship of LGPS funds and in more general terms, have a clear fiduciary duty in the performance of their functions. However, it is equally clear that the beneficiaries of the scheme have an interest in the beneficial title to the assets and the legal right to require that the assets are held and managed on their behalf in accordance with the governing legal instrument, in this case, the LGPS regulations. In this respect, elected councillors have a duty of care that goes beyond the strict fiduciary duty to employers and tax payers. Although there is no one single model in operation throughout the 89 LGPS fund authorities in England and Wales, most funds are managed by a formal committee representing the political balance of that particular authority. Under section 101 of the Local Government Act 1972, a local authority can delegate their pension investment functions to the Council, committees,

sub-committees or officers, but there are a small number of LGPS fund authorities which are not local authorities and therefore have their own, distinct arrangements.

9. It is also relevant to note that under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No 2853) and The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (Welsh SI 2001 No 2291), statutory decisions taken under schemes made under sections 7, 12 or 24 of the Superannuation Act 1972, are not the responsibility of the executive arrangements introduced by the Local Government Act 2000. This means, for example, that the executive cannot make decisions in relation to discretions to be exercised under the LGPS, or make decisions relating to the investment of the pension fund and related matters. These functions have continued to be subject to the same legislative framework as they were before the passing of the Local Government Act 2000, including delegations under section 101 of the Local Government Act 1972. Such delegations vary from local authority to local authority depending on local circumstances. However, the Secretary of State has advised that where such decisions were delegated to committees or to officers, then those delegations should continue. (see paragraphs 5.10 and 5.11 of the Statutory Guidance to English Local Authorities – New Council Constitutions : Guidance Pack Volume 1)

10. Under section 102 of the Local Government Act 1972, it is for the appointing council to decide upon the number of members of a committee and their terms of office. They may include committee members who are not members of the appointing council and such members may be given voting rights by virtue of section 13 of the Local Government and Housing Act 1989. On this basis, it is open to pension committees to include representatives from district councils, scheme members and other lay member representatives, with or without voting rights, provided that they are eligible to be committee members (eligibility rules are set out in section 15 of the Local Government and Housing Act 1989).

## **STATUTORY BACKGROUND**

11. In response to proposals issued by the former Office of the Deputy Prime Minister, the Local Government Pension Scheme Regulations 1997 were amended to require LGPS administering authorities to publish details of their governance and stewardship arrangements by 1 April 2006. The purpose of this first step was to gauge progress made in [improving the breadth of representation on LGPS committees](#) in general and to assess what action, if any, should be taken to ensure that all committees operate consistently at best practice standards. On 30 June 2007, the 1997 regulations were further amended to require administering authorities to report the extent of compliance against a set of best practice principles to be published by CLG, and where an authority has chosen not to comply, to state the reasons why. The first such statement must be published by 1<sup>st</sup> [August 2008](#).

12. [With effect from 1 April 2008, the responsibility to review and, where necessary, revise their governance compliance statements published under Regulation 73A of The Local Government Pension Scheme Regulations 1997, is set out in Regulation 31 of the 2008 regulations :-](#)

## **“Pension funds : governance compliance statement**

31—(1) This regulation applies to the written statement prepared and published by an administering authority under regulation 73A of the 1997 Regulations (1).

(2) The authority must—

- (a) keep the statement under review;
- (b) make such revisions as are appropriate following a material change in respect of any of the matters mentioned in paragraph (3); and
- (c) if revisions are made—
  - (i) publish the statement as revised, and
  - (ii) send a copy of it to the Secretary of State.

(3) The matters are—

- (a) whether the authority delegates its function, or part of its function, in relation to maintaining a pension fund to a committee, a sub-committee or an officer of the authority;
- (b) if it does so—
  - (i) the terms, structure and operational procedures of the delegation,
  - (ii) the frequency of any committee or sub-committee meetings,
  - (iii) whether such a committee or sub-committee includes representatives of employing authorities (including authorities which are not Scheme employers) or members, and, if so, whether those representatives have voting rights;
- (c) the extent to which a delegation, or the absence of a delegation, complies with guidance given by the Secretary of State and, to the extent it does not so comply, the reasons for not complying.

(4) In reviewing and making revisions to the statement, the authority must consult such persons as it considers appropriate.

It is important to note that the scope of this statutory guidance is restricted, by virtue of regulation 31(3)(c) above, to issues concerning the extent to which the way in which an authority has chosen to delegate its functions complies with the best practice principles set out below. Although outside the scope of regulation 31(3)(c), we think it is good practice for LGPS fund authorities as part of their governance and stewardship arrangements, to have robust risk management processes and policies to manage conflicts of interest in place. However, these are separate and specialist topics and so are not covered in depth here. We intend to work with CIPFA and other relevant parties on these topics to develop supplementary general advice and guidance notes on these important governance matters for LGPS funds.

## **PURPOSE**

13. The purpose of this guidance is two fold. Firstly, Part II of the guidance provides a detailed description of each of the best practice principles against which compliance is to be measured (with each of the principles being set out in **bold** type) and secondly, it includes guidance on how the compliance statement in Part II should be completed.

## **TERMINOLGY**

14. Throughout this paper, the distinction is made between those committees or sub-committees that have been formally constituted under 101 of the Local Government Act 1972 (“main committees”) and other committees or panels that have been established outside of that provision (“secondary committees”). Unless reference is made to “elected members”, the word “member” where it appears in the text is used to denote any member of a main or secondary committee, whether elected or not.

## **POSITION OF NON-LOCAL AUTHORITY ADMINISTERING AUTHORITIES**

15. Regulation 73A of the Local Government Pension Scheme Regulations 1997 and this guidance made under powers granted by Regulation 73A(1)(c) of those regulations apply equally to all LGPS administering authorities in England and Wales. It is recognised, however, that a small number of administering authorities are not constituted as local authorities and are not therefore subject to the legal framework imposed on local authorities and their committees by local government legislation. In these cases, the authorities concerned are still required to measure the extent to which they comply with the principles set out in Part II of this guidance and where they are unable to comply, for example, because of their special position, to explain this when giving reasons for being unable to comply.

## **SUGGESTED READING**

16. Although not a formal part of this guidance, it is recommended that administering authorities and other stakeholders should be aware of the contents of the following documents :-

a) Good Governance Standards for Public Services (Office for Public Management (Alan Langlands – January 2005)

b) Code of Corporate Governance in Local Government (CIPFA/SOLACE – 2007)

c) Institutional Investment in the UK – A Review (HM Treasury – March 2001)

d) Local Government Pension Scheme : Pension Fund Decision Making – Guidance Note (CIPFA Pensions Panel – 2006)

e) Guidance for Chief Finance Officers : Principles for Investment Decision Making in the Local Government Pension Scheme in the UK (CIPFA Pensions Panel – 2001)

f) [Regulatory Code of Practice no 7 : Trustee Knowledge and Understanding. The Pensions Regulator, May 2006](#)

g) [Institutional Investment in the UK – Six years on \(NAPF, November 2007\)](#)

h) [Updating the Myners principles : a consultation \(HM Treasury, DWP, The Pensions Regulator, March 2008\)](#)

## **PART II - THE PRINCIPLES**

### **Part II/A - Structure**

17. Elected members have legal responsibilities for the prudent and effective stewardship of LGPS pension funds and, in more general terms, have a clear fiduciary duty to [participating employers; local tax payers and scheme beneficiaries](#), in the performance of their functions. Although there is no one single model in operation throughout the 89 fund authorities in England and Wales, most funds are managed by a formal committee representing the political balance of that particular authority. Under section 101 of the Local Government Act 1972, a local authority can delegate their statutory functions to the Council, committees, sub-committees or [to officers](#), but there are a small number of fund authorities which are not local authorities and therefore have their own, distinct arrangements (see para [15](#) above).

18. The formal committee structures operated by individual pension fund authorities reflect local circumstances and priorities and it is not the remit of this guidance to prescribe a “one size fits all” approach. The evidence collected by Communities and Local Government in 2006 indicated that the overwhelming majority of these committees operate efficiently and effectively despite the variations in their constitution, composition and working practices. The intention is not therefore to level out these differences but instead to ensure that these different structures reflect the best practice principles described below :-

**a. The management of the administration of benefits and strategic management of fund assets clearly rests with the main committee established by the appointing council.**

**b. That representatives of participating LGPS employers, admitted bodies and scheme members (including pensioner and deferred members) are members of either the main or secondary committee established to underpin the work of the main committee.**

**c) That where a secondary committee or panel has been established, the structure ensures effective communication across both levels.**

**d) That where a secondary committee or panel has been established, at least one seat on the main committee is allocated for a member from the secondary committee or panel.**

### **Part II/B - Representation**

19. Under section 102 of the Local Government Act 1972, it is for the appointing council to decide upon the number of members of a committee and their terms of office. They may include committee members who are not members of the appointing council and such members may be given voting rights (see Part II/C) by virtue of section 13 of the Local Government and Housing Act 1989. On this basis, it is open to

pension committees to include representatives from district councils, scheme member and other lay member representatives, with or without voting rights, provided that they are eligible to be committee members (eligibility rules are set out in section 15 of the Local Government and Housing Act 1989)

20. The number of stakeholders affected by the local management of the pension scheme and governance of pension funds is vast and it is accepted that it would be impractical to expect individual committee structures to encompass every group or sector that has an interest in the decisions that fall to be made under the scheme's regulations. The following principles are therefore intended to ensure that the composition of committees, both formal and secondary, offers all key stakeholders the opportunity to be represented. For example, deferred and pensioner scheme members clearly have an interest in the performance of pension committees but it would be impractical in many cases to expect them to have direct representation on a committee. Instead, there is no reason why a representative of active scheme members couldn't also act on behalf of deferred and pensioner scheme members. Similarly, a single seat in the committee structure could be offered to somebody to represent the education sector as a whole, rather than having individual representatives for FE Colleges, Universities, academies, etc.

21. An independent professional observer could also be invited to participate in the governance arrangement to enhance the experience, continuity, knowledge, impartiality and performance of committees or panels. Such an appointment could improve the public perception that high standards of governance are a reality and not just an aspiration. Moreover, the independent observer would be ideally placed to carry out independent assessments of compliance against the Myners' principles, both in terms of the 2004 follow up report and the latest NAPF consultation on next steps, together with other benchmarks that the fund authority's performance is measured against. The management of risk is a cornerstone of good governance and a further role for the independent observer would be to offer a practical approach to address and control risk, their potential effects and what should be done to mitigate them and whether the costs of doing so are proportionate. **It is accepted, however, that certain fund authorities may have devised, or wish to devise, other ways of ensuring the effective scrutiny of their decision-making and performance and it should therefore be borne in mind that the appointment of an independent observer is not to be taken as an absolute requirement in this guidance, provided that authorities are satisfied that their alternative arrangement would match the sort of standards rehearsed in the NAPF's follow-up report on the Myners' principles (recommendation 7) and the government's response to it published in March 2008.**

**a) That all key stakeholders are afforded the opportunity to be represented, within the main or secondary committee structure. These include :-**

- i) employing authorities (including non-scheme employers, eg, admitted bodies);**
- ii) scheme members (including deferred and pensioner scheme members),**
- iii) where appropriate, independent professional observers, and**
- iv) expert advisors (on an ad-hoc basis).**

**b) That where lay members sit on a main or secondary committee, they are treated equally in terms of access to papers and meetings, training and are given full opportunity to contribute to the decision making process, with or without voting rights.**

### **Part II/C - Selection and role of lay members**

22. It is important to emphasise that it is no part of the fund authority's remit to administer the selection process for lay members sitting on main or secondary committees or to ensure their attendance at meetings, unless they wish to do so. Their role is to determine what sectors or groups are to be invited to sit on LGPS committees or panels and to make places available. Effective representation is a two way process involving the fund authorities providing the opportunity and the representative bodies initiating and taking forward the selection process under the general oversight of the fund authority.

23. Members of a main decision-making LGPS committee are in a [similar position](#) as trustees in the private sector. Trustees owe a duty of care to their beneficiaries and are required to act in their best interests at all times, particularly in terms of their investment decisions. They are not there to represent their own local, political or private interest. On a main committee [in the LGPS, the fiduciary duty to employers, taxpayers and scheme beneficiaries](#) must always be put before the interests of [individuals](#), individual groups or sectors represented on the committee, whereas on secondary committees or panels that are not subject to the requirements of the Local Government Act 1972, private interests can be reflected in proceedings.

**a) That committee or panel members are made fully aware of the status, role and function they are required to perform on either a main or secondary committee.**

**[b\) That at the start of any meeting, committee members are invited to declare any financial or pecuniary interest related to specific matters on the agenda](#)**

### **Part II/D – Voting**

24. Although the 2006 survey conducted by Communities and Local Government revealed that formal votes taken by LGPS committees were rare, it is important to set out the legal basis on which voting rights are, or may be prescribed to elected and lay members.

#### **Elected members of the administering authority**

a) All elected members sitting on LGPS committees have voting rights as a matter of course. Regulation 5(1)(d) of the Local Government (Committee and Political Groups) Regulations 1990 (SI No 1553/1990) provides that voting rights will be given to a person appointed to a sub committee of a committee established under the Superannuation Act 1972 who is a member of the authority which appointed the committee.

#### **Elected members of authorities other than the administering authority and lay members**



b) Under sections (13)(1)(a) and (2)(a) of the Local Government and Housing Act 1989, a person who is a member of a committee appointed by an authority under the Superannuation Act 1972 but who is not a member of that authority, shall be treated as a non-voting member of that committee. However, the provisions of section 13(3) and (4) of the 1989 Act allow an administering authority discretion as to whether or not a member of a committee is treated as a voting or non-voting member.

### **Lay members of advisory panels, etc**

c) Because they are not formally constituted committees, secondary committees or panels on which lay members sit are not subject to the restrictions imposed by the Local Government Act 1972 on voting rights. In these circumstances, there is nothing to prevent voting rights being conferred by the administering authority on all lay members sitting on panels or informal committees outside the main decision making committee.

25. The way in which an administering authority decides to exercise its discretion and confer voting rights on lay members is not a matter for which the Secretary of State, under his regulations making powers under the Superannuation Act 1972, has any remit. The issue of whether voting rights should be conferred on district council or scheme member representatives, for example, is a matter for individual administering authorities to consider and determine in the light of the appointing council's constitution. Regulation 73A(1)(b)(iii) of the 1997 Regulations already requires an administering authority to include in their statement details of the extent to which voting rights have been conferred on certain representatives, but does not extend to the need to give reasons where this is not the case.

**a) The policy of individual administering authorities on voting rights is clear and transparent, including the justification for not extending voting rights to each body or group represented on main LGPS committees.**

### **Part II/E – Training/Facility time/Expenses**

26. In 2001, the Government accepted the ten investment principles recommended by Paul Myners in his report, "Institutional Investment in the UK". The first of those principles, "Effective Decision Making", called for decisions to be made only by persons or organisations with the skills, information and resources necessary to take them effectively. Furthermore, where trustees - or in the case of the LGPS, members of formal committees - take investment decisions, that they have sufficient expertise to be able to evaluate critically any advice they take.

27. The Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (as amended) already requires administering authorities to report the extent of compliance with this principle. But on the wider issue of governance, it is equally important that they report on the extent to which training facilities, etc, are extended to lay members sitting on either main or secondary LGPS committees.

28. If all stakeholders represented on LGPS committees or panels are to satisfy the high standards set out in the Myners' set of investment principles, it follows that equal opportunity for training, and hence facility time, should be afforded to all lay members. They too should have access to the resources that would enable them to evaluate the expert advice commissioned by the main investment committee and to comment accordingly. But the way that is achieved at local level is not a matter for national prescription, in particular, the policy adopted by individual administering authority or local authority on the reimbursement of expenses incurred by committee or panel members. On this basis, the best practice standard which administering authorities are required to measure themselves focuses on the extent to which they have a clear and transparent policy on training, facility time and reimbursement of expenses and whether this policy differs according to the type of member, for example, elected member or scheme member representative.

**a) That in relation to the way in which statutory and related decisions are taken by the administering authority, there is a clear policy on training, facility time and reimbursement of expenses in respect of members involved in the decision-making process.**

**b) That where such a policy exists, it applies equally to all members of committees, sub-committees, advisory panels or any other form of secondary forum.**

**c) That the administering authority considers the adoption of annual training plans for committee members and maintains a log of all such training undertaken.**

#### **Part II/F – Meetings (frequency/quorum)**

29. From the evidence collected in 2006 by Communities and Local Government, it is clear that the majority of administering authorities who have introduced a multi-level committee structure operate different reporting/meeting cycles for each committee or panel. In the case of main, formal committees, these tend to meet, on average, at least quarterly, though there are a few examples where meetings are held less often. As a general rule, it is expected that main committees should meet no less than quarterly. Although it is important that any secondary committees or panels should also meet on a regular and consistent basis, it is accepted that there should be no compulsion or expectation that there should be an equal number of main and secondary committee meetings. But as a matter of best practice, it is expected that secondary meetings should be held at least bi-annually.

30. Although the overwhelming majority of administering authorities operate effective representation policies, the evidence collected in 2006 by Communities and Local Government revealed a small handful of authorities who restrict membership of their committee's to elected members only. In legal terms, this is permissible, but in terms of best practice, it falls well short of the Government's aims of improving the democratisation of LGPS committees. In those cases where stakeholders, in particular, scheme members, are not represented, it is expected that administering authorities will provide alternative means for scheme employers, scheme members, pensioner members, for example, to be involved in the decision-making process. This may take the form of employer road-shows or AGMs where access is open to all

and where questions can be addressed to members of the main committee. It must be emphasised, however, that road shows or AGMs are not seen as viable alternatives to the participation of scheme member representatives within an authority's governance arrangement. They are, in effect, to be seen as a matter of last resort in the hopefully unlikely situation where an authority has decided to exclude scheme member representatives from either their main or sub-committee.

a) **That an administering authority's main committee or committees meet at least quarterly.**

b) **That an administering authority's secondary committee or panel meet at least twice a year and is synchronised with the dates when the main committee sits.**

c) **That an administering authority who does not include lay members in their formal governance arrangements, must provide a forum outside of those arrangements by which the interests of key stakeholders can be represented**

### **Part II/G - Access**

31. The people to whom the appointing council entrust with taking investment, and other statutory decisions, is a matter for that council to consider and determine. However, it is important that others, outside that formal decision-making process but involved in some capacity in the general governance arrangement, have equal access to committee papers and other documents relied on by the main committee in taking its decisions.

32. The fact that voting rights are not conferred on individual lay members should not put them on any less footing than those members who serve on the main committee with full voting rights. Secondary panels or committees have a clear role to underpin and influence the work of the main committee and can only do so where there is equal access.

a) **That subject to any rules in the councils constitution, all members of main and secondary committees or panels have equal access to committee papers, documents and advice that falls to be considered at meetings of the main committee.**

### **Part II/H – Scope**

33. Traditionally, LGPS committees have focussed on the management and investment of the funds under their supervision, with questions arising from the main scheme dealt with by officers with delegated authority under the council's constitution. In recent times, however, and reflecting the trend towards de-centralisation, administering authorities have become responsible for formulating a significant number of policy decisions on issues like abatement, compensation and the exercise of discretions under the scheme's regulations. These are key decisions which should be subject to the rigorous supervision and oversight of the main committee. And with the prospect of some form of cost sharing arrangement to be in place by March 2009, it is clear that there are other key scheme issues, outside the investment

field, that main committees may need to address in the future. Given the not insignificant costs involved in running funds, LGPS committees and panels need to receive regular reports on their scheme administration to ensure that best practice standards are targeted and met and furthermore, to satisfy themselves and to justify to their stakeholders that the fund is being run on an effective basis. This would involve reviewing the committee's governance arrangements and the effective use of its advisers to ensure sound decision making. Here, the use of an independent professional observer, free of conflicts of interest, would enable a wholly objective approach to be taken to the stewardship of the fund.

34. All this points to LGPS committees perhaps becoming more multi-disciplined than they have been in the past, with a consequential impact on, for example, membership and training. For example, if decisions are to be taken by LGPS committees that could impact on the cost-sharing mechanism, it is reasonable to expect scheme member representatives to be present on those decision making committees, given that those decisions could have a direct impact on the position of scheme members under the scheme.

35. Although the future may see LGPS committees having a broader role than at present, individual administering authorities may adopt different strategies to meet these new demands. The more traditional approach might be to extend the scope of existing investment committees to include general scheme and other administrative issues. But already, there is evidence to suggest that some administering authorities have opted instead to establish new sub committees to deal solely with [the administration and communication of members' benefits or other scheme issues](#). The purpose of this guidance is not to prescribe the way in which administering authorities develop and adapt to scheme developments. Instead, the intention is to increase the awareness that administering authorities and their committees must be flexible and willing to change to reflect scheme changes and wider pensions issues.

**a) That administering authorities have taken steps to bring wider scheme issues within the scope of their governance arrangements**

### **Part II/I – Publicity**

36. A key component in improving the democratisation of LGPS governance arrangements is to increase the awareness that opportunities exist for scheme member representatives and LGPS employers, for example, to become part of these arrangements. But the onus for increasing awareness should not rest entirely with the administering authority. It is just as much the role of scheme member representatives and scheme employers to keep abreast of developments in this field and to play an active part in the selection and appointment of committee or panel members. This is best left to local choice and discretion. However, administering authorities are reminded that under Regulation 76B(1)(e) of the 1997 Regulations, the latest version of their Governance Compliance Statement must be included in their Pension Fund Annual Report.

**a) That administering authorities have published details of their governance arrangements in such a way that stakeholders with an interest in the way in**

which the scheme is governed, can express an interest in wanting to be part of those arrangements.

## **Annexe A : Compliance Statement**

### **Principle A – Structure**

	<b>Not Compliant*</b>			<b>Fully Compliant</b>	
<b>a)</b>					
<b>b)</b>					
<b>c)</b>					
<b>d)</b>					

\* Please use this space to explain the reason for non-compliance (regulation 73A(1)(c)/1997 Regulations/regulation 31(3)(c)/2008 Regulations)

Please use this space if you wish to add anything to explain or expand on the ratings given above :-

## **Annexe B – Summary of CLG’s 2006 Survey on Governance**

### **LOCAL GOVERNMENT PENSION SCHEME GOVERNANCE SURVEY - A SUMMARY**

On 31 March 2006, LGPS administering authorities in England and Wales were required to publish details of their governance arrangements. This paper summarises the results of the survey. For the purposes of the paper, “representation” is taken to mean either attendance of scheme members (or their representatives) on formal investment/pension committees; attendance on secondary, formal committees; attendance on informal, advisory panels or the opportunity to attend annual general meetings, employer/scheme road shows, etc. A list of LGPS funds showing the extent of representation across these four areas is attached.

#### **1. Main findings**

- a). Percentage of fund authorities with representation on main committee = 84%
- b) Percentage of fund authorities with representation on second committees = 11%
- c) Percentage of fund authorities with representation on advisory panels = 15%
- d) Percentage of fund authorities with representation at AGMs, etc = 18%
- e) Percentage of fund authorities with none of the above = 15% (11 authorities)

(English shire counties = 4 authorities)  
(London Boroughs = 6 authorities)  
(Mets + others = 0 authorities)  
(Welsh Unitaries = 1 authority)

#### **2. Membership of Committees**

- a) Average Number of members on all main committees= 10 (range = 3 to 20)
- b)) English shire counties = 11 (range = 5 to 20)
- c) London Boroughs = 8 (range = 4 to 15)
- d) Mets + others = 15 (range = 10 to 20)
- e) Welsh Unitaries = 8 (range = 3 to 16)

### **3. Frequency of Committee Meetings**

- a) 86% of committees meet at least Quarterly
- b) 2 committees meet twice per annum
- c) 3 committees meet five times per annum
- d) 5 committees meet six times per annum

### **4. Voting Rights**

- a) 4 authorities have conferred voting rights on lay members :-

- English shire counties = 2
- London boroughs = 0
- Mets and others = 2
- Welsh Unitaries = 0

- b) 5 authorities have conferred voting rights to lay members on advisory panels :-

- English shire counties = 1
- London boroughs = 0
- Mets and others = 2
- Welsh Unitaries = 2

### **5. Number of “trustees”**

- a) Total number of members on main committees = 900
- b) Total number of elected members on main committees = 650 (72%)
- c) Number of lay members on main committees = 250 (28%)

### **6. Correlation between Governance and Funding levels**

- a) No representation - Average funding level = 73% (range = 62% to 79%)
- b) 1 item of representation - Average funding level = 72.3% (range = 61% to 88%)

- c) 2 items of representation - Average funding level = 76.5% (range = 64% to 94%)
- d) 3 items of representation - Average funding level = 83.5% (range = 74% to 93%)
- e) 4 items of representation - Average funding level = 79.5% (range = 77% to 82%)

**(Average funding level of all funds in England and Wales = 73.4%)**

### **7. Correlation between Governance and Investment Returns**

- a) No representation (11 funds) 03/04 Average = 25.7% (range = 22% to 30%)  
04/05 Average = 13% (range = 10% to 17%)
- b) 1 item of representation (47 funds) 03/04 Average = 25.4% (range = 20% to 30%)  
04/05 Average = 13.1% (range = 9% to 20%)
- c) 2 items of representation (19 funds) 03/04 Average = 23.5% (range = 20% to 29%)  
04/05 Average = 11.7% (range = 7% to 15%)
- d) 3 items of representation (2 funds) 03/04 Average = 24.5% (range = 24% to 25%)  
04/05 Average = 12.5% (range = 12% to 13%)
- e) 4 items of representation (2 funds) 03/04 Average = 23% (range = 22% to 24%)  
04/05 Average = 13.5% (range = 13% to 14%)

### **REPRESENTATION LEVELS IN THE LGPS (ENGLAND & WALES)**

#### **LGPS Funds with no form of representation :-**

Buckinghamshire County Council  
 Cambridgeshire County Council  
 West Sussex County Council  
 Worcestershire County Council  
 Hackney London Borough  
 Hounslow London Borough  
 Kensington & Chelsea London Borough  
 Corporation of London  
 Redbridge London Borough  
 Wandsworth London Borough  
 City & County of Swansea

#### **LGPS Funds with 1 form of representation :-**

Berkshire Pension Fund  
 Cheshire County Council  
 Cornwall County Council



Devon County Council  
Durham County Council  
East Riding County Council  
Essex County Council  
Gloucestershire County Council  
Hampshire County Council  
Hertfordshire County Council  
Kent County Council  
Lincolnshire County Council  
Teeside Pension Fund  
Norfolk County Council  
Northumberland County Council  
Oxfordshire County Council  
Somerset County Council  
Suffolk County Council  
Surrey County Council  
Warwickshire County Council  
Wiltshire County Council  
Barking London Borough  
Barnet London Borough  
Bexley London Borough  
Bromley London Borough  
Camden London Borough  
Croydon London Borough  
Ealing London Borough  
Enfield London Borough  
Hammersmith & Fulham London Borough  
Haringey London Borough  
Harrow London Borough  
Havering London Borough  
Hillingdon London Borough  
Lambeth London Borough  
Lewisham London Borough  
Merton London Borough  
Newham London Borough  
Richmond-Upon-Thames London Borough  
Southwark London Borough  
Sutton London Borough  
Tower Hamlets London Borough  
Waltham Forest London Borough  
City & County of Cardiff Council  
Rhondda, Cynon & Taff CBC  
Gwynedd Pension Fund  
Dyfed Pension Fund  
Torfean County Borough Council

**LGPS Funds with 2 forms of representation :-**

Bath & NE Somerset Council (Avon Pension Fund)  
Bedfordshire County Council

Cumbria County Council  
Derbyshire County Council  
Dorset County Council  
East Sussex County Council  
Isle of Wight County Council  
Lancashire County Council  
Leicestershire County Council  
Nottinghamshire County Council  
Staffordshire County Council  
Shropshire County Council  
Brent London Borough  
Islington London Borough  
Merseyside Pension Fund  
Tyne & Wear Pension Fund  
London Pensions Fund Authority  
Environment Agency  
Clwyd Pension Fund  
South Yorkshire PTA

**LGPS Funds with 3 forms of representation:-**

West Midlands Pension Fund  
Tameside Pension Fund

**LGPS Funds with 4 forms of representation :-**

West Yorkshire Pension Fund  
South Yorkshire Pension Fund

**Note 1**

Information relating to the following LGPS funds was not available at the time the survey was conducted :-

Northamptonshire County Council  
North Yorkshire County Council  
Greenwich London Borough  
Royal Borough of Kingston Upon Thames  
City of Westminster  
Powys County Council

**Note 2**

The four forms of representation referred to above include :-

- membership of scheme members (or their representatives) on formal investment/pension committees;
- membership of scheme members (or their representatives) on secondary, formal committees;

- membership of scheme members (or their representatives) on informal, advisory panels, or
- the opportunity to attend annual general meetings, fund roadshows, etc.

**Department for Communities and Local Government  
Local Government and Firefighters' Pension Schemes Division  
May 2006**

This page is intentionally left blank

## WIRRAL COUNCIL

### PENSIONS COMMITTEE

29 SEPTEMBER 2008

### REPORT OF THE DIRECTOR OF FINANCE

### EMPLOYER REPRESENTATION ON COMMITTEE

#### 1. EXECUTIVE SUMMARY

- 1.1. This report recommends a change to the representation arrangements for non District Council employers on the Pensions Committee
- 1.2. Members are recommended to agree to increase the representation on the Committee in respect of the non District Council employers and therefore the total membership of the Committee from 15 to 16 members plus employee representatives.

#### 2. BACKGROUND

- 2.1. The composition of the Pensions Committee is currently:

10 elected Members from the Administering Authority (Wirral Council),  
1 elected Member from each of the other four District Councils  
1 member elected by ballot representing the special interests of the other non District Council employers.

Mrs Jayne Browne the Pension Liaison Officer from Liverpool John Moores University currently represents the special interests of these other employers as a member of the Pensions Committee.

- 2.2. The 111 non District Council employers who in total employ 14,147 active scheme members, comprise a varied range of different types of organisation including educational institutions, voluntary organisations, private contractors undertaking best value contracts for local authorities, housing organisations and a number of other commercial organisations who have inherited former public sector employees.
- 2.3. A request for representation on the Pensions Committee has been received from an admission body - the bus company Arriva (Merseyside), which now employs some 509 former pensionable employees, who were originally employed by Merseyside Passenger Transport Executive (MPTE).
- 2.4. Members have previously agreed that the one existing place on the Committee in respect of the non District Council employers should be allocated based on nominations received and the results of a ballot of the relevant employers held every four years. Jayne Browne was elected in June 2006 and will be due for re-election in June 2010.

**3. REPRESENTATION CHANGES PROPOSED**

- 3.1. It is proposed that provision be agreed for an additional member on the Pensions Committee to represent the special interests and concerns of this diverse and varied group of non District Council employers. Should the recommendation be agreed nominations would be sought from amongst the relevant employers including Arriva (Merseyside) and a ballot held to elect the additional representative.

**4. FINANCIAL IMPLICATIONS**

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

**5. STAFFING IMPLICATIONS**

- 5.1. There are none arising from this report.

**6. EQUAL OPPORTUNITY IMPLICATIONS**

- 6.1. There are none arising from this report.

**7. COMMUNITY SAFETY IMPLICATIONS**

- 7.1. There are none arising from this report.

**8. HUMAN RIGHTS IMPLICATIONS**

- 8.1. There are none arising from this report.

**9. PLANNING LOCAL AGENDA 21 IMPLICATIONS**

- 9.1. There are none arising from this report.

**10. LOCAL AGENDA 21 IMPLICATIONS**

- 10.1. There are none arising from this report.

**11. MEMBER SUPPORT IMPLICATIONS**

- 11.1. There are none arising from this report.

**12. BACKGROUND PAPERS**

- 12.1. None were used in the preparation of this report.

13 **RECOMMENDATION**

- 13.1. That Members increase the representation on the Pensions Committee in respect of the non District Council employers and therefore the total membership of the Committee from 15 to 16 members plus employee representatives.

IAN COLEMAN  
DIRECTOR OF FINANCE

FNCE/202/08

This page is intentionally left blank



## **WIRRAL COUNCIL**

### **PENSIONS COMMITTEE**

**29 SEPTEMBER 2008**

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

##### **ELECTRONIC DOCUMENT MANAGEMENT & WORKFLOW SYSTEM**

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

- 1.1 This report informs Members of the cost of carrying out a software upgrade required to the Civica electronic document management and workflow system.

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

- 2.1 The current electronic document management and workflow system supplied by Civica was implemented by the Pension Fund in 1997.
- 2.2 The software provider has made necessary improvements and adjustments to the version of the software package (Pensions 4 is in use) and issued an upgrade (Pensions 5) which is currently being implemented.
- 2.3 Civica has informed MPF that the Pensions 4 product is no longer actively supported (as at 31 December 2007) and future revisions or adjustments will only be made to Pensions 5. Therefore it is necessary to upgrade the system to Pensions 5.

###### **3. FINANCIAL AND STAFFING IMPLICATIONS**

- 3.1 The estimated cost of the upgrade to the new version of the software is £64,000, inclusive of the required training programme for staff.
- 3.2 This cost is provided from within the current budget.
- 3.3 I have agreed the cost under delegation.

###### **4. EQUAL OPPORTUNITY IMPLICATIONS**

- 4.1 There are none arising from this report.

###### **5. COMMUNITY SAFETY IMPLICATIONS**

- 5.1 There are none arising from this report.

###### **6. LOCAL MEMBER SUPPORT IMPLICATIONS**

- 6.1 This report has no particular implications for any Members or wards.

**7. LOCAL AGENDA 21 IMPLICATIONS**

7.1. There are none arising from this report.

**8. PLANNING IMPLICATIONS**

8.1. There are none arising from this report.

**9. BACKGROUND PAPERS**

9.1 None were used in the preparation of this report.

**10. RECOMMENDATION**

10.1 That Members note the report.

IAN COLEMAN  
DIRECTOR OF FINANCE

FNCE/201/08

## **WIRRAL COUNCIL**

### **PENSIONS COMMITTEE**

**29 SEPTEMBER 2008**

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

#### **LOCAL GOVERNMENT CHRONICLE (LGC) AWARDS 2008**

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

- 1.1. This report informs Members of the submission of an entry for the LGC Awards 2008.
- 1.2. Attendance at the awards ceremony if the Authority is shortlisted should be referred to the Cabinet for approval of duty.

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

- 2.1. The awards have been held for a number of years and are intended to celebrate the highest levels of achievement in local government. In 2007 the Council was successful in being declared the winner of the Procurement Initiative Award.
- 2.2. The closing date for submission of entries was 18 September 2008 and I will provide a verbal update on progress at the meeting. If the Authority is shortlisted then Members may wish to attend the awards ceremony.
- 2.3. The awards ceremony for shortlisted entries is to take place on 3 November 2008 at the Dorchester Hotel in London.

##### **3. FINANCIAL IMPLICATIONS**

- 3.1. There is no charge for entering the awards competition or for attendance at the awards ceremony. The cost of travel to London and overnight accommodation in London for those attending can be met from within the existing budget provision.

##### **4. STAFFING IMPLICATIONS**

- 4.1. There are no staffing implications in this report.

##### **5. EQUAL OPPORTUNITY IMPLICATIONS**

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

**6. HUMAN RIGHTS IMPLICATIONS**

6.1. There are none arising directly from this report.

**7. COMMUNITY SAFETY IMPLICATIONS**

7.1. There are no specific implications for any Member or Ward.

**9. LOCAL AGENDA 21 IMPLICATIONS**

9.1. There are no specific implications arising from this report.

**10. PLANNING IMPLICATIONS**

10.1. There are no specific implications arising from this report.

**11. BACKGROUND PAPERS**

11.1. None used in the preparation of this report.

**12. RECOMMENDATIONS**

12.1. That Committee consider attendance at the awards ceremony on 3 November 2008.

12.2. That attendance be referred to the Cabinet for approval of duty.

IAN COLEMAN  
DIRECTOR OF FINANCE

FNCE/190/08

## **WIRRAL COUNCIL**

### **PENSIONS COMMITTEE**

**29 SEPTEMBER 2008**

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

#### **ANNUAL EMPLOYERS CONFERENCE**

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

- 1.1 This report informs Members of the arrangements for the annual Employers Conference to be held on Tuesday 18 November 2008.

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

- 2.1 The value of holding an annual conference was recognised following the successful re-introduction of this event in November 1997, with attending representatives appreciating the opportunity to hear presentations on topical issues, and receive reports on current activity and performance.

##### **3. DETAILS OF THE AGENDA**

- 3.1 The 2008 conference will be held at Aintree Racecourse on Tuesday 18 November 2008.
- 3.2 In addition to the annual reports in respect of investment performance and administration of the Pension Fund over the previous year presentations will be given by Dr Damian Trafford a Specialist Occupational Health Physician from the Association of Local Authority Medical Advisors (ALAMA) on ill health retirement issues, and by Bob Holloway from the Department for Communities and Local Government (DCLG) on LGPS Cost Sharing Proposals. The Actuary will also be in attendance to answer employers' questions on valuation and liability issues.
- 3.3 The conference will be an opportunity for MPF with the assistance of speakers from the DCLG and ALAMA to update employers on developments during the past year and the latest information on the implementation of the revised LGPS introduced from 1 April 2008.

3.4 The draft programme commences with coffee and registration at 9.30 a.m. My welcome and introduction will be followed by speakers from Merseyside Pension Fund with the Annual Investment and Administration reports, Dr Damian Trafford from ALAMA and Bob Holloway from the DCLG. After an Open Forum session the Conference should close at 1 p.m. Lunch is to be provided.

3.5 Members are invited to attend the Conference and further details will be circulated to all Members of this Committee as soon as arrangements are finalised.

#### **4. FINANCIAL IMPLICATIONS**

4.1 The cost of holding the Conference is estimated at £4,500, provision for which is contained within the budget.

#### **5. STAFFING IMPLICATIONS**

5.1 There are no staffing implications in this report.

#### **6. EQUAL OPPORTUNITY IMPLICATIONS**

6.1 There are none arising directly from this report.

#### **7. HUMAN RIGHTS IMPLICATIONS**

7.1 There are none arising directly from this report.

#### **8. COMMUNITY SAFETY IMPLICATIONS**

8.1 There are no specific implications arising from this report.

#### **9. LOCAL MEMBER SUPPORT IMPLICATIONS**

9.1 There are no specific implications for any Member or Ward.

#### **10. LOCAL AGENDA 21 IMPLICATIONS**

10.1 There are no specific implications arising from this report.

#### **11. PLANNING IMPLICATIONS**

11.1 There are no specific implications arising from this report.

#### **12. BACKGROUND PAPERS**

12.1 No background papers were used in preparing this report.

**13. RECOMMENDATIONS**

- 13.1. That Members note the arrangements for the annual Employers Conference.
- 13.2. That attendance at the Conference be referred to the Cabinet for approval of duty.

IAN COLEMAN  
DIRECTOR OF FINANCE

FNCE/198/08

This page is intentionally left blank



## **WIRRAL COUNCIL**

### **PENSIONS COMMITTEE**

**29 SEPTEMBER 2008**

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

##### **LAPFF CONFERENCE**

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

- 1.1 This report recommends the Committee to approve attendance by the Chair at the Local Authority Pension Fund Forum (LAPFF) Annual Conference, organised by PIRC, to be held in Bournemouth on 3 – 5 December 2008.

###### **2. THE CONFERENCE**

- 2.1 MPF is a member of LAPFF and its Annual General Meeting and annual conference provides a forum for topical issues, affecting Local Authority Pension Funds, to be discussed and addressed.
- 2.2 Attendance at this seminar has traditionally been by the representative on the LAPFF accompanied by an officer. The Chair of the Pensions Committee has recently been elected to the Executive Committee of LAPFF.

###### **3. FINANCIAL IMPLICATIONS**

- 3.1 LAPFF membership allows for two free conference places. Accommodation costs of £208 per person and travelling costs will be met from the existing budget.

###### **4. STAFFING IMPLICATIONS**

- 4.1 There are no staffing implications in this report.

###### **5. EQUAL OPPORTUNITY IMPLICATIONS**

- 5.1 There are none arising directly from this report.

###### **6. COMMUNITY SAFETY IMPLICATIONS**

- 6.1 There are none arising directly from this report.

###### **7. LOCAL MEMBER SUPPORT IMPLICATIONS**

- 7.1 There are no specific implications for any Member or Ward.

**8. LOCAL AGENDA 21 IMPLICATIONS**

8.1 There are none arising directly from this report.

**9. PLANNING IMPLICATIONS**

9.1 There are none arising from this report.

**10. BACKGROUND PAPERS**

10.1 None were used in the preparation of this report.

**11. RECOMMENDATION**

11.1 That attendance at the LAPFF conference by the Vice Chair be approved and referred to the Cabinet for approval of duty.

IAN COLEMAN  
DIRECTOR OF FINANCE

FNCE/218/08

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank