

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 .

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. 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.