

WIRRAL COUNCIL

PENSIONS COMMITTEE

11 JANUARY 2011

REPORT OF THE DIRECTOR OF FINANCE

LOCAL GOVERNMENT (DISCRETIONARY PAYMENTS) (INJURY ALLOWANCES) REGULATIONS 2011

1. EXECUTIVE SUMMARY

- 1.1. This report informs Members of draft regulations issued on 22 December 2010 by the Department for Communities and Local Government (DCLG) for statutory consultation.
- 1.2 Members are requested to agree that a technical response be submitted on behalf of the Pension Fund.

2. BACKGROUND

- 2.1 The new Statutory Instrument, The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011, will revoke the surviving provisions of the Local Government (Discretionary Payments) Regulations 1996 covering employer funded awards in respect of:

(Part V) Injury Allowances;
(Part VI) Gratuities; and
(Part VII) Miscellaneous and Supplementary (Covering appeals)

The Statutory Instrument will provide revised Regulations allowing Local Authorities to deal with injury allowances and appeals at local level (Appendix 1 attached).

- 2.2 The purpose of the consultation is to ensure that the now outdated provisions from 1996 are replaced with provisions which reflect, among other things:
 - a. the use to date made of these powers by employers,
 - b. external influences such as tax changes;
 - c. changes driven by equalities legislation; and
 - d. to align the appeals process with the internal dispute resolution procedure (IDRP) at local level by removing the role of the Secretary of State in deciding appeal cases.
- 2.3 The draft regulations have been circulated by MPF to all current employers.

2.4 The closing date for submission of comments to DCLG on the consultation is 31 March 2011.

3. **MAIN POINTS IN THE DRAFT REGULATIONS**

3.1 The new draft regulations contain the following amendments and changes:-

- a. revoke the Gratuities Part from the old Regulations as it is time-expired and no longer required;
- b. update legal references to various Acts;
- c. insert references to “nominated co-habiting partners” for equality reasons and to put the regulations beyond legal challenge;
- d. introduce a new provision to ensure that National Insurance Contributions (NIC) are deducted from injury allowances to make it consistent with the other public sector injury benefit schemes;
- e. remove the role of the Secretary of State in deciding appeal cases, so that the role is entirely “localised”.

(This would be consistent with the practice for dealing with medical and non-medical appeals where the Secretary of State was removed from the Local Government Pension Scheme on 1 June 2004).

- f. introduce a new provision whereby an Independent Registered Medical Practitioner (IRMP) would be required to certify a local government employee’s injury/disease before an allowance could be awarded;

The 1996 injury allowance provisions apply to admission bodies (i.e. employees whose access to the LGPS is by an admission agreement). DCLG is proposing that the new Regulations will not apply to admission bodies.

3.2. In responding to the consultation, MPF is asked to advise whether admission bodies routinely exercise their powers to award injury allowances under the provisions of the 1996 Regulations, and if so what transitional protections are needed to manage the transition between the old and the new Regulations; and

Views are sought on the “transitional provisions” i.e. to move to a local IDR process within 3 months following the “coming into force” of the new regulations (1 October 2011).

4. **FINANCIAL IMPLICATIONS**

4.1 The responsibility for the cost of awarding gratuities and injury allowances rests with the relevant employer and has no financial implications for the Pension Fund.

5. STAFFING IMPLICATIONS

5.1. There are none directly arising from this report.

6. EQUAL OPPORTUNITY /EQUALITY IMPACT ASSESSMENT

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. LOCAL AGENDA 21 IMPLICATIONS

9.1. There are none arising from this report.

10. PLANNING 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. DCLG letter dated 22 December 2010 and draft statutory instrument were used in preparing the report.

13. RECOMMENDATION

13.1 That Members agree that a technical response on behalf of the Pension Fund be submitted.

IAN COLEMAN
DIRECTOR OF FINANCE

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