

To: Addressees below

22 December 2010

Dear Colleague

**DRAFT – THE LOCAL GOVERNMENT (DISCRETIONARY PAYMENTS) (INJURY ALLOWANCES) REGULATIONS 2011**

**Introduction**

1. With the Minister's agreement, I attach draft regulations to commence a period of statutory consultation which will revoke the extant provisions of the Local Government (Discretionary Payments) Regulations 1996 covering:-  
(Part V) Injury Allowances;  
(Part VI) Gratuities; and  
(Part VII) Miscellaneous and Supplementary (covering appeals).

The new Statutory Instrument, The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011, will provide revised regulations allowing local authorities to deal with injury allowances and appeals at local level.

2. The purpose of this consultation is to ensure that the now outdated provisions from 1996 are replaced with provisions which reflect, among other things, the use to date of these powers, external influences such as tax changes, changes driven by equalities legislation and a policy intention to align the appeals process with the internal dispute resolution procedure at local level.

**Timing**

3. Your comments on the draft Regulations are invited **no later than Thursday, 31 March 2011**. Local Government business partners who wish to discuss the draft Regulations are invited to get in touch without delay, to allow discussion to take place within the consultation period.

**Background**

4. In the light of action now being taken recently by other Government Departments to review their respective injury benefit (IB) schemes – namely, the Home Office (in respect of Police Officers), Department of Health (in respect of NHS employees) and the Department for Education (in respect of teachers), primarily to restrict and tighten the level of injury allowance provided, it is now felt necessary to revise and update provisions which impact on local authorities.

## APPENDIX 1

5. These new draft Regulations do not go as far as steps taken within other parts of the public sector IB schemes, but are intended to provide a framework relative to the particularity of local government employment and taking the opportunity to meet the need to update some legal references.

### **Main points to note in the new draft Statutory Instrument (SI)**

6. The new draft SI entitled: The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 contain the following amendments and changes:-

- revokes the Gratuities Part from the old Regulations as it is time-expired and no longer required;
- updates some legal references to various Acts;
- inserts references to “nominated co-habiting partners” for equality reasons and to put the regulations beyond legal challenge;
- introduces a new provision to ensure that National Insurance Contributions (NICs) are deducted from injury allowances to make it consistent with the other public sector injury benefit schemes;
- to 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.
- to 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 (ie employees whose access to the LGPS is by an admission agreement). We are proposing that the new Regulations will not apply to admission bodies. In responding to the consultation, please 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
- your views are sought on the “transitional provisions” ie to move to a local IDR process within 3 months following the “coming into force” date of the new regulations. The provisions reflect the approach taken in The Local Government Pension Scheme (Amendment) Regulations 2004 which “localised” medical and non-medical IDR appeal cases in 2004.

APPENDIX 1

7. Finally, your comments on the **attached** draft Regulations should be sent **no later than Thursday, 31 March 2011** to: **Sandra Layne, Workforce, Pay and Pensions Division, Zone 5/G6 – Eland House, Bressenden Place, London SW1E 6DE**. Electronic responses should also be sent to **Sandra Layne – email: [Sandra.layne@communities.gsi.gov.uk](mailto:Sandra.layne@communities.gsi.gov.uk)** .

Yours sincerely

**BRIAN TOWN**  
**HEAD OF WORKFORCE, PAY AND PENSIONS BRANCH 2**

**The consultation is addressed to:**

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 Pension Authority  
Tameside Metropolitan Borough Council  
Wirral Metropolitan Borough Council  
Bradford Metropolitan City Council  
South Tyneside Metropolitan Borough Council  
Wolverhampton Metropolitan Borough Council  
London Pension Fund Authority  
Environment Agency

Town Clerk, City of London Corporation  
Clerk, South Yorkshire PTA  
Clerk, West Midlands PTA

Fire and Rescue Authorities in England and Wales  
Police Authorities in England and Wales  
Audit Commission  
National Probation Service for England and Wales

Local Government Association (LGA)  
Employers' Organisation  
LGPC

ALACE  
PPMA  
SOLACE  
CIPFA  
ALAMA

Association of Colleges  
Association of Consulting Actuaries  
Association of District Treasurers  
Society of County Treasurers  
Society of Welsh Treasurers  
Society of Metropolitan Treasurers  
Society of London Treasurers  
Association of Educational Psychologists

NALC  
Society of Local Council Clerks

Trades Union Congress	UCATT
UNISON	GMB
NAEIAAC	NAPO
AMICUS	TGWU
MOCOP Members	Equal Opportunities Commission