

## **PENSION FUND COMMITTEE – 7 DECEMBER 2012**

### **Local Government Pension Scheme (Miscellaneous Regulations) 2012**

#### **Report by Assistant Chief Executive and Chief Financial Officer**

#### **Introduction**

1. The Local Government Pension Scheme (Miscellaneous) Regulations 2012 (SI 2012 / 1989) were issued in August 2012. Generally these regulations were a tidy up of previous regulations, with changes effective from October 2012, although there is backdating to April 2008 in some instances.
2. These regulations have also made amendments to the scheme to bring it into line with the requirements of automatic enrolment.
3. The changes referred to above have been summarised in the LGPC Bulletin 94 which is attached as an appendix to this report.
4. These regulations do, however, contain several areas of specific interest, or require decisions from the Committee. These are detailed below.

#### **Early Release of Benefits**

5. These regulations require the administering authority to introduce a policy for instances where a scheme member wishes to apply for the early release of their deferred benefits but their former employer is no longer an active scheme employer, and there is no successor body.
6. A draft policy is attached to this report. The Committee also needs to determine how any cases will be heard. As it is anticipated that there will be very few cases, it is recommended initially that this Committee delegates the decision, in consultation with the Chairman, to a panel of Officers (excluding both the Pension Services Manager and Service Manager, Pensions, Insurance and Money Manager to avoid conflict of interest with complaint procedure).

#### **Bond Requirements**

7. These regulations introduce the requirement that both transferee and community admission bodies must carry out an actuarial assessment of the level of risk arising from the premature termination of the provision of service

by reason of insolvency, winding up or liquidation of the admission body, and, where assessed as necessary, must put an indemnity or bond in place.

8. As a result of this change the Pension Admission Agreement has been updated.

## **Closure Valuations**

9. Administering authorities have been granted new powers to obtain actuarial valuations and revised rates and adjustment certificates in instances where an employing authority ceases, or the administering authority believes that they will cease, to be a scheme employer. Previously this option only applied to admission bodies.

## **RECOMMENDATION**

### **10. The Committee is RECOMMENDED to**

- a) **Agree policy for assessing requests for early payment of pensions**
- b) **Agree to delegate the decision making under this policy to a panel of Officers, in consultation with the Chairman.**
- c) **Note the change of bond requirement**
- d) **Note the change of power to request closure valuations and revised rates and adjustment certificates.**

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Background papers:  
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## Appendix A

### **Local Government Pension Scheme (Miscellaneous) Regulations 2012**

Extract from LGA Bulletin 94 – The SI includes amendments which, among other things:

- Allows employees with a contract of employment that's for less than 3 months the option to join the LGPS
- Fundamentally changes the way employees of admission bodies join the LGPS
- Provides that employees cannot complete a form to opt-out of membership of the LGPS before their employment commences
- Changes the final pay calculation for those members who cease active membership on or after 1 October 2012 to include pensionable pay from membership of the LGPS with a previous employer
- Clarifies the position regarding flexible retirement where members have to take all of their benefits built up before 1 April 2008 on taking flexible retirement but can take all, some or none of their post 1 April 2008 benefits
- Extends power to administering authorities to award early payment of pensions where the employing authority ceases to exist
- Amends an anomaly in the Benefit, Membership and Contributions Regulations 2007 so that pensioner members with a suspended tier 3 pension benefit can now opt to take payment of benefits from age 60 at an unreduced rate should that member meet the rule of 85
- Allows pensioner members with a suspended tier 3 pension benefit who can prove that they are suffering from a medical condition which renders them permanently incapable of any gainful employment to apply for early payment of their benefits
- Amends the definition of an eligible child to cross reference to the Equality Act 2010
- Provides for children's pensions to take into account any additional contributions made by the deceased member and also ignores any reduction in the deceased's membership that resulted from a reduction in hours due to the member's ill health (as determined by an Independent Registered Medical Practitioner)

- Reintroduces the option to elect to pay additional contributions to allow pre 6 April 1988 membership to count for a nominated cohabiting partner's pension. Elections have to be made before 1 April 2013 or no later than 12 months from the date the scheme member first signs a nominated cohabiting partner's nomination form in respect of that partner (whichever is later)
- Requires a separate admission agreement to be in place where a transferee admission body is performing the functions of a scheme employer in more than one contract (for contracts entered into from 1 October 2012)
- Extends the provision of an indemnity or bond to Community Admission Bodies
- Provides administering authorities with the power to obtain a closing actuarial valuation and a revised rates and adjustments certificate where an employing authority ceases to be a scheme employer or there is reason to believe they will cease to be a scheme employer in the future
- Allows a police and crime commissioner, and a chief constable to become a scheme employer from 22 November 2012
- Where an employing authority is required to contribute to more than one LGPS fund or merges or amalgamates with another employing authority in a different fund or moves its main place of business to a different geographical area, the Secretary of State can, on or after 1 October 2012 and upon application from the employing authority, decide whether to issue a direction substituting one fund for another
- Allows LGPS funds to pay the annual allowance tax charge following a request to do so from a member, with a consequential reduction in the member's benefits. This amendment has been backdated to 6 April 2011
- Requires administering authorities to issue an annual benefit statement to each of its active, deferred and pension credit members by no later than 6 months after the end of the tax year to which the statement relates
- Clarifies that the LGPS fund for an academy is the one within whose local government area the academy is located except in cases where the London Pensions Fund Authority (LPFA) was the administering authority prior to conversion as in such cases the LPFA remains the appropriate fund for the academy.

In addition there is a further amendment which updates the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. This now requires a local authority's policy statement (relating to the exercise of their discretion to base redundancy pay on actual pay and/ or to award a compensation payment of up to a maximum of 104 weeks pay) to include employees of both technical institutes and federated schools.

