

PENSION FUND COMMITTEE – 19 MARCH 2010

LOCAL GOVERNMENT PENSION SCHEME (LGPS) – DRAFT (MISCELLANEOUS) REGULATIONS 2010

Report by Assistant Chief Executive & Chief Finance Officer

Introduction

1. On 24 December 2009, the Department for Communities and Local Government (DCLG) wrote to all LGPS Stakeholders in England and Wales inviting their comments on draft proposed changes to the regulations. This report covers the main elements of the proposal and seeks the Committee's views of any issues it wishes to cover in a response to the Government. The Government has asked for response by 18 March 2010, but have agreed to accept the Oxfordshire reply on 19 March 2010.
2. This report looks at the changes which have a significant impact.

Background

3. The background to this latest consultation, as set out in the letter from DCLG, is to make the necessary amendments to correct and insert cross references across four sets of regulations – the Administration Regulations; the Benefits Regulations; the Transitional Regulations and the 1997 Regulations.
4. The consultation paper also includes specific proposals relating to the ill health provisions within the regulations.

Consultation Proposals

5. Regulation 8 – Applies to foundation schools. Proposal to change regulations to remove need for employer consent to allow staff to become members of the Local Government Pension Scheme (LGPS).
6. Regulation 16 – Proposal that any newly re-employed member could link any previous membership to the current membership record, providing this is done within the first twelve months of re-employment. At present members can join up previous LGPS service, but must do so consecutively i.e. at the start of each new employment, they can only link their record from their last employment. To move away from this would mean that scheme employers would have to accept transfers from any previous LGPS service which would have a potentially major impact upon costs.
7. Regulation 47 (1) - proposes the regulations are changed to disallow a refund to be made to members where they are leaving one employment but continuing in another employment. This would be tidier and would allow

members with multiple employments to receive a deferred benefit which could then be linked to future service, or be transferred to another scheme.

8. Schedule 2 – proposed amendment that schools known as city technical colleges or city colleges can, by agreement, become academies and therefore still be employers within the fund.
9. Regulation 14 – proposal to allow the early release of a pension credit from age 60, with the appropriate percentage deduction. This will be at no cost to scheme employers.
10. Ill-health proposals mainly centre on changes in relation to 3rd tier benefits: -
 - Concerning the on-going issue that occupational health doctors consider that a person's ability to obtain gainful employment will depend also on other factors such as the person's mental and physical abilities in the absence of illness and the availability of jobs which may be influenced, for example, by economic conditions. They remain of the view that the term 'undertaking gainful employment' is a more appropriate term to that of 'obtaining gainful employment'. DCLG has looked again at the construction of the regulations and is now of the view that the Regulations should be amended to reflect this.
 - Regulations are to be changed to confirm that 3rd tier benefits will cease within three years of leaving employment, or normal retirement age, if earlier. Similarly, for clarification purposes, it is proposed to amend Regulation 20(8) (b) so that 3rd tier benefits stop if the member attains age 65 within the 3 year period.
 - It is proposed that the Internal Dispute Resolution Procedure is available, so that a member awarded a 3rd tier ill-health benefit, could on appeal have this reviewed to either a 2nd, or 1st tier benefit.
 - It was not the intention when Benefits Regulation 20(13) was introduced that the age 45 protection would apply where a member leaves their employment with a LGPS employer with deferred benefits, returns to local government but that employment is terminated on grounds of ill health. Therefore, it has been suggested that this regulation be amended so that it applies to a person who was an active member before 1 April 2008, and who has had continuous membership in respect of which their employment is terminated on the grounds of ill health and who has not received any benefits as a result of that membership.
 - It has been proposed that Regulation 23 (death grants: active members) and Regulation 24 (survivor benefits: active members) are amended so that there is protection for a member who reduces their hours of employment as a result of a medical condition which results in early release of ill health benefits, also applies for the calculation of survivor and death benefits. This means that no account shall be taken of the reduction

in hours that is attributable to the condition that results in the death of the member when considering survivor benefits.

Comments on the Proposals

11. In the main the proposals are straightforward and clarify the original intention of the regulations.
12. However, the one proposal which gives concern is that set out in regulation 16 allowing members to link previous service with current membership on a non concurrent basis, since this would potentially increase scheme employer costs. There is no way in which any increase in costs could be measured in advance so to agree to this change would be accepting unknown liabilities.

RECOMMENDATION

13. **The Committee is RECOMMENDED to note the report, and to consider what response, if any, it wishes to send to the Government in respect of this consultation.**

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Background papers: Nil

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