Division(s): N/A

PENSION FUND COMMITTEE – 14 MARCH 2014

THE LGPS REGULATION UPDATE

Report by the Chief Finance Officer

Introduction

1. The Committee previously received reports in March 2012, December 2012, June 2013, September 2013 and December 2013 regarding the 2014 Local Government Pension Scheme (LGPS). This report is to further update the Committee on the progress of the implementation of the 2014 Local Government Pension Scheme (LGPS) and the Regulations which have been issued to date.

2. This report also looks at some of the discretions the Administering Authority needs to make and publish.

LGPS 2014

3. The LGPS Regulations 2013 were made on 12 September 2013 and laid before Parliament on 19 September 2013. These regulations will come into force on 01 April 2014 when they will be deemed to have been made under the Public Service Pensions Act 2013.

4. Transitional Regulations which will set out how scheme members transfer from the 2008 scheme to the 2014 scheme, along with details of how any proposed protections of rights and entitlement will work, were due to be issued in September.

5. There has been weekly speculation about the date of issue but, at the time of writing this report, no transitional regulations have been received; although a working draft copy has been circulated to Administering Authorities.

6. The Department of Communities and Local Government (DCLG) has yet to publish the factors to support the full working of the regulations.

7. On a positive note the final employee contribution bandings for April 2014 have been confirmed.

8. Whilst this is a far from ideal situation Pension Services has been working with scheme employers and scheme members to tell them about the 2014 scheme, what it means both administratively and personally.

Administering Authority Policies

9. The update report submitted to this Committee in December 2013 confirmed that the 2013 Scheme Regulations do not currently require any changes to be made to the Administering Authority policies other than updating of references to the Regulation number. This is in progress and a report will be made at the next committee meeting.

Administering Authority Discretions

10. Attached at annexe1 is the list of Administering Authority discretions detailed in the 2013 Regulations, many of which are unchanged from the 2008 Regulations. In these cases this Committee's previous decision has been noted alongside the regulation. However the following are either new discretions, or require updating.

11. Additional Pension Contributions (APC) or Shared Cost Additional Pension Contributions (SCAPC) are used in the new regulations to cover a number of situations where a member, and/or the employer will make payments to cover a shortfall in contributions. These shortfalls can arise from a variety of situations such as maternity leave; paternity leave; adoption leave; unpaid leave and reserve forces leave.

12. Regulation R16 (1) give the administering authority the discretion to refuse a request to pay an APC over a period of time where it is impractical to do so. Recommend that this decision is delegated to officers, who will be able to assess any such requests.

13. APCs will also replace the previous options, known as Added Years and Additional Regular Contributions, allowing members to buy additional membership or pension respectively.

14. Under previous regulations where a member has asked to purchase additional membership or pension any application has been subject to receipt of a medical report, confirming the member is in good health. This is because once a contract has started if the member then has to retire on grounds of ill-health, or dies the contract is deemed to be fully paid up. It is therefore recommended that committee approve the need for a medical report before any such contract is agreed. However, if payment was due to be made in one lump sum no medical report would be required since the contract would not be valid unless the payment had been received by the fund.

15. The draft transitional regulations have introduced the option to charge members for the provision of an estimate of additional pension that would be provided in return for a transfer of an in-house Additional Voluntary Contribution (AVC) or Shared Cost Additional Voluntary Contribution (SCAVC), where the arrangement was entered into before 01 April 2014. These estimates are provided at retirement, and very few, if any, are requested at an earlier time. Given the low volume it is not thought to be worthwhile to introduce a charge at this time.

16. Regulation R17(12) introduces a new discretion for the administering authority to determine where AVC monies should be paid on the death of a member. This is further extending the current provision where the administering authority is required to decide to whom a death grant is paid. It is recommended that the new provision is also delegated to officers unless it is a contentious case.

17. The decision as to whether to pay the death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965 is currently delegated to officers unless in a contentious case.

18. Regulation 22(3)(c) requires the administering authority to open and maintain pension accounts for each member of the scheme. The regulation further specifies the types of accounts which must be kept and that they may be kept in any form that the administering authority considers appropriate. It is therefore recommended that the committee confirms all pension accounts should be kept in line with regulatory and system requirements.

19. Regulation TP10 (9) allows the administering authority to decide, in the absence of an election from the member, to which on-going record the benefits should be merged. This will only apply where there is more than one on-going record. It is recommended that merger should be made with the next record, as determined by date of starting membership.

20. Regulation R68(2) gives the administering authority the option of requiring any strain on fund costs arising from early retirements; flexible retirements or redundancies to be paid up front. Previously this committee has determined that

    - the maximum length of any repayment period is the lesser of 5 years, or the period starting from the day after retirement to age 60 or the earliest retirement date if later; and
    - there will be no interest added to any monies not paid immediately

21. This regulation also applies to the capital costs arising from early retirement strain costs on the grounds of ill-health, although, historically, no upfront charge has ever been made on the basis that this retirement decisions are based on health rather than management decisions. Therefore any additional costs would be picked up as part of the valuation process. The committee is asked whether they wish to make any changes to the current arrangements.

22. The draft transitional regulations also give the administering authority the option to decide whether any strain on fund costs are to be paid upfront by employers when they have decided to waive the actuarial reduction. Whilst this is not yet finalised within the regulations it is recommended that this included in the current arrangements for strain costs.

23. Regulation R32(7) give the option to extend time limits in which member gives notice of wish to draw benefits before the normal retirement age, or on flexible retirement. It is recommended that the current time limit of three months is maintained.

24. Regulation R34(1) refers to allowing the option of commutation of small pensions. Since the introduction of the three month vesting period, there has been a significant rise in the number of small deferred pensions held by the Fund. Given the administrative effort involved in making payment of small pensions, it is recommended to allow the commutation of small pensions in line with HMRC limits and guidance, on the request of the scheme member.

25. The approval of medical advisors used by employers to determine cases of ill-health is currently delegated to officers. No change is recommended.

26. Regulations TP12 (6); R38 (3) and R38 (6) would require the administering authority to make decisions regarding cases of ill-health where the scheme employer is no longer active. In any such cases a report would be submitted to committee for their decision.

27. Regulation 49(1)(c) - the decision as to under which regulation any benefit would be paid in cases where a member has not made an election is currently delegated to officers. It is not recommended that this is changed.

28. The discretion as to whether to set up a separate admission agreement fund has not been discussed previously and would form part of the fundamental review. There is no proposal to set up a separate fund at this time.

29. The administering authority can decide whether to have a written pension administration strategy and, if so, what matters it should include. To date Pension Services has used the service level agreement which was required to be put in place by the directorate. It is recommended that the service level agreement should be replaced with an administration strategy approved by this committee.

30. Any administration strategy would incorporate the current arrangements for frequency of payments to be made to the fund (regulation R69(1)); the form and frequency of the information to accompany the payments to the fund (regulation R69(4)); any charges to be made arising from the employer's level of performance (regulation R70 and TP22(2))l; whether to charge interest on payments overdue from the employer (regulation R71(1)) and what information should be provided to the administering authority to enable it to discharge its functions (regulation R80(1)(b) and TP22(22(1).

31. The option to obtain a revised employer contribution rate in circumstances where a scheme employer is likely to become an exiting employer is currently delegated to officers.

32. However, the decision to obtain a new rates and adjustments certificate if the Secretary of State amends the benefit regulations as part of the cost sharing under regulation 63 would be subject to a report submitted to this committee for consideration.

33. The procedure to be followed in exercising stage 2 Internal Dispute Resolution Procedures (IDRP) follows national guidelines and is delegated to officers, as is the decision to appeal against employer decisions, or lack of decisions. Regulations R76(4) ad Regulation R79(2).

34. In cases where a person is incapable of managing their affairs the option to pay all, or part of their pension to another person for their benefit would be subject to a report to this committee for their decision.

35. Regulation R100 introduces new discretions relating to transfers in:

- (7) Giving the administering authority the discretion as to whether they will allow the transfer of pension rights into the fund.
- (68) To extend the normal time limit (in conjunction with the scheme employer) for acceptance of a transfer value beyond 12 months from joining LGPS

36. The introduction of the first decision was, I understand, to meet requirement of some funds who have already introduced a ban on transfers in, whilst the second bullet point is simply extending the current employer discretion. It is recommended that the fund continues to allow transfers in and that the administering authority discretion would mirror the employer discretion in whether transfers were allowed outside of 12 months.

37. The agreement to make a bulk transfer (regulation R98(1)(b)), or to agree to set aside assets or cash for bulk transfer (R98(4)9a)) is already delegated to officers in conjunction with fund actuary.

38. The draft transitional regulations introduce two new discretions in cases where members have died before making an election to determine best pay figures to be used in calculation of their benefits. It is recommended this should be delegated to officers to calculate best option to be used.

39. Currently for co-habiting partners to receive a benefit after the death of the member they must complete and return a nomination form to be held on the pension record. Regulation RSch1 & TP17 (9)(b) now turns this around so that benefits would be paid on evidence of financial interdependence provided after members death. Committee are asked what information they would require.

40. There are no changes to current arrangements relating to regulation R89(5); RSch1 & TP17 (9) and TP15(1)(c) &TSch1 &L83(5).

RECOMMENDATIONS

41. The Committee is RECOMMENDED to:

a) note progress of the 2014 scheme implementation;

b) delegate to officers the option of refusing a request to pay APC by instalment, if impractical to do so;

c) agree that a medical report, confirming the member is in good health, is required before an APC to buy additional pension can be signed;

d) agree that no medical report will be required where an APC to buy additional pension is by lump sum, but that the contract will not be valid until payment is received by the fund;

e) confirm that no charges should be introduced for estimates for the transfer of an in-house AVC where the arrangement was entered into prior to 1 April 2014;

f) amend the current delegation to officers to determine to whom payment should be made in the case of the death of a scheme member to cover all sums due, unless the case is contentious;

g) confirm all pension accounts should be kept in line with regulatory and system requirements;

h) confirm that in the absence of an election from a member, benefits should be merged with the next record, as determined by date of starting membership;

i) decide whether any changes should be made to the current arrangements of collecting capital costs, and specifically the capital costs relating to ill-health retirements;

j) extend the provisions in i) to include the upfront collection of any fund strain costs arising from an employer waiving an actuarial reduction;

k) maintain the current time limit of three months for member notification to draw retirement benefits;

l) introduce commutation of small pension amounts in line with HMRC limits and guidance on the request of the Member;

m) replace the service level agreement with an administration strategy to be approved by this Committee and to determine any other matters to be included;

n) agree that the fund continues to allow transfers in and that the administering authority discretion would mirror the employer discretion in whether transfers were allowed outside of 12 months;

o) agree that officers calculate best rate of pay to be used in payment of benefit where member has died before making an election; and

p) decide what financial information should be provided by co-habiting partners to confirm financial dependency and entitlement to benefits.

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Background papers: Nil
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