

PENSION FUND COMMITTEE – 3 DECEMBER 2010
LOCAL GOVERNMENT PENSION SCHEME (MISCELLANEOUS)
REGULATIONS – SI 2010/2090

Report by Assistant Chief Executive & Chief Finance Officer

Introduction

1. This report is to inform the Committee of the changes introduced by the Local Government Pension Scheme (LGPS) (Miscellaneous) Regulations which came into force on 30 September 2010.
2. These regulations introduced some 56 changes, with retrospective effect from April 2008, October 2008, April 2009 and December 2009, although many of these are technical clarifications. This report details the most significant of these changes.

Ill-Health Retirements

3. The regulations applying to all tiers of ill-health retirement change the wording of the medical opinion sought on the certificate, from “being able to obtain gainful employment to that of “being capable of undertaking any gainful employment”. Thereby confirming it is the ability to work rather than actually getting employment.
4. The importance of employers maintaining records to confirm that reduced hours are being worked as a result of ill health is emphasised. Since where the member is in part-time service wholly or partly as a result of their medical condition any ill-health benefits are calculated on full membership prior to the reduction in hours. This protection is now extended to benefits following a death in service where part-time employment had been a result of a medical condition which contributed to the death.
5. Tier 3 ill-health benefits are paid for a maximum of three years (reviewed at eighteen months) unless changed to a tier 2 benefit, and the regulations now impose a time limit on an employer to decide on this review. Where a tier 3 benefit has been paid within 3 years of normal retirement age, the regulations allow benefits to be suspended if the person does get other work and the employer is agreed that the new employment is ‘gainful’. If no other work is taken up then at normal retirement age the pension will continue for the member’s life time.
6. If tier 3 benefit has been awarded within 18 months of normal retirement age the employer does not have to review the benefit unless the member gets other work within that timescale.

7. Where a third tier ill health pension has been paid for the appropriate period, and then suspended, the member becomes a 'pensioner member with deferred benefits'. The member can ask employers for early payment of their pension, before age 60.
8. Where a member leaves on tier 1, or tier 2 ill health but then returns to another LGPS employment, which is again terminated on grounds of ill health the member cannot end up with more membership than if he had left with tier 1 from the original membership.

Contributions

9. There is clarification of the period / date for setting the new contribution rates each year – by a change in the wording from “on 1st April 2009, and each subsequent anniversary” to “on the first day of the pay period in which 1st April 2009 falls, and on the first day of the pay period in which each subsequent 1st April falls”.
10. The regulations also confirm that no contributions are due on or after a member's 75th birthday.

Transfer of Previous Pension Rights

11. Prior to these regulations being issued, members with previous local government pension membership could only transfer these periods of membership sequentially and had to do so within twelve months of re-joining the LGPS.
12. These regulations have removed the sequential requirement thereby allowing the transfer in of any previous LGPS membership within the first twelve months of re-joining the LGPS.
13. Additionally the regulations allow “a window of opportunity”, for the next year, to all current members to re-consider their earlier decisions and to link previous service to their current membership. Furthermore scheme employers do not have any right of veto to this option, which could, depending on take up, significantly increase their costs.

Pension Credit Members

14. These regulations confirm that pension credit members can now take benefits from age 60, subject to the appropriate actuarial reduction.

Nominated Co-habiting Partners

15. These regulations confirm that only active members can elect to pay additional contributions to uprate pre 6 April 1988 membership to count towards a nominated co-habitee's survivor pension.

Pension Increases

16. These regulations make explicit that administering authorities have the power to enforce the payment by employers of contributions arising through Pension Increase liabilities. This includes employers without any active employees.

17. **RECOMMENDATION**

The Committee is RECOMMENDED to note the report.

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Background papers:

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