The Local Government Pensions Committee
Secretary: Mike Walker

employersorganisation

CIRCULAR

Please pass on sufficient copies of this Circular to your Treasurer/Director of Finance and to your Personnel and Pensions Officer(s) as quickly as possible

No. 161 – AUGUST 2004

PROPOSED CHANGES TO THE LGPS IN ENGLAND AND WALES FROM APRIL 2005

Purpose of this Circular

1. This Circular has been issued:

- firstly, to provide authorities with a copy of the Local Government Pension Committee's response to the draft Local Government Pension Scheme (Amendment) (No.2) Regulations 2004. The draft regulations detailed the changes that the Office of the Deputy Prime Minister (ODPM) propose to make to the LGPS in England and Wales from 1 April 2005; and
- secondly, to bring to the attention of authorities in England and Wales a letter from the ODPM dated 5 August 2004. The letter seeks to address several issues which, collectively, affect the context within which ODPM is presently implementing a programme of modernising changes to the LGPS. We would particularly welcome your views on the scope for managing costs using those measures currently available to authorities that are identified on the second page of the ODPM letter. Views should be e-mailed to info@lga.gov.uk by the end of August 2004. This information will be helpful to the LGA in its discussions with government on resource needs for 2005/2006.

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LGPC response to the draft Local Government Pension Scheme (Amendment) (No.2) Regulations 2004

2. On 31 March 2004 the ODPM issued the draft Local Government Pension Scheme (Amendment) (No.2) Regulations 2004. The draft regulations propose that, from 1 April 2005, the earliest age at which benefits will be payable from the Scheme in England and Wales (other than on the grounds of permanent ill health) will be increased from age 50 to age 55. This would affect:

    - those members who, provided they obtain their employer's consent, wish to voluntarily retire before age 60, or

    - any members who are retired on the grounds of redundancy or efficiency on or after 1 April 2005.

    The change would not, however, be applied to Scheme members who are aged 50 or over on 31 March 2005 nor, as mentioned earlier, will it affect members who are retired on the grounds of permanent ill health (regardless of their age at the date of retirement).

3. The draft Regulations also propose that the Scheme's '85 year rule' will be removed in respect of benefits accruing from membership after 31 March 2005 (or after 31 March 2013 for those Scheme members, hereinafter referred to as "protected members", who will be aged 60 or over <u>and</u> satisfy the 85 year rule before 1 April 2013). This would mean that:

    - in respect of benefits accruing from membership after 31 March 2005 (or after 31 March 2013 for the "protected members") the Scheme's Normal Payable Date will be age 65. If the benefits in respect of the post 31 March 2005 Scheme membership (or post 31 March 2013 Scheme membership for "protected members") are drawn at age 65 they will be paid in full; but if a member voluntarily retires and draws the benefits before age 65[1] they will be paid at an actuarially reduced rate[2].

    - for the benefits that members have already accrued up to 31 March 2005 (or up to 31 March 2013 for "protected members") the Scheme rules would remain unaltered i.e.
        - the benefits, if paid at age 65, will be paid in full;
        - if voluntarily drawn before age 65[1], and the member's combined age (in whole years) and service is 85 years or more (i.e. the '85 year rule' is met), the benefits will be paid in full;
        - if voluntarily drawn before age 65[1] and the member does not meet the 85 year rule, the benefits will be paid at an actuarially reduced rate[2].

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[1] But voluntary retirement before age 60 requires the employer's consent
[2] Although employers can waive the actuarial reduction on compassionate grounds.

4. The Local Government Pension Committee has made two formal responses to the draft regulations; one commenting on the proposed changes at a policy level and one providing detailed comments on the wording of the draft regulations. A copy of the policy response to the draft regulations is attached at Appendix 1 for information, as is a copy of a press release from the Employers' Organisation for local government at Appendix 2. In preparing the policy response, the Committee considered the proposals contained in the draft regulations very carefully and sought to achieve a balance between the variety of employer views that exist. Anyone wishing to obtain a copy of the Committee's detailed comments on the wording of the draft regulations can do so by e-mailing terry.edwards@lg-employers.gov.uk

ODPM letter dated 5 August 2004

5. Attached, at Appendix 3, is a letter from the ODPM dated 5 August 2004. The content of the letter is self-explanatory, but there are two key messages.

6. Firstly, the letter highlights "the current and continuing necessity of minimising any significant increases on employers' costs which could in turn lead to adverse effects on local authority council tax demands from April 2005." The LGA and the Employers' Organisation supports this sentiment and the view expressed in the letter that "the potential impact that increases in employers' costs may have on local authority resources, and any subsequent effect on authorities' council tax bills, is something which all LGPS interests, including elected members at all levels, will need to assess carefully as the closing stages of the 2004 actuarial valuation exercise are taken into account in the timescale of the 2005/06 budget setting processes in particular." The clear message is that authorities need, as far as they prudently can, to manage the cost of the Scheme and the impact on Council Tax payers by means of the measures currently available to them, as identified on the second page of the ODPM letter. We would welcome your views on the scope for managing costs as this information will be helpful to the LGA in its discussions with government on resource needs for 2005/2006. Views should be e-mailed to info@lga.gov.uk by the end of August 2004.

7. The second message in the ODPM letter is that the proposed changes to the LGPS from April 2005, and the reasoning behind those changes (i.e. to take account of increased member longevity and to ensure the long-term sustainability of the Scheme), has to be communicated clearly to, and understood by, all interested parties. With this in mind, we would recommend that administering authorities and employing authorities, when communicating the proposed changes, make use of the information in the attached explanatory leaflets (see Appendices 4 and 5). This will ensure that a common message is delivered. One leaflet is designed for Scheme members

and the other is designed to explain the changes to employers / elected members.

8. The ODPM letter of 5 August 2005 has been issued to a number of representative bodies that are likely, in turn, to have copied it to those they represent. It is important, however, that the content of the letter is communicated as widely as possible e.g. to Pension Committee / Investment Committee members and to Directors of Finance / Treasurers, Directors of Personnel / HR Managers, etc within all employers participating in the Scheme.

Actions for administering authorities

9. Administering authorities in England and Wales should copy this Circular to employers in their Fund (other than to Local Authorities to whom this Circular has been sent direct) or bring the Circular to the attention of employers by directing them to the Circular on the LGPC website at: www.lg-employers.gov.uk/pensions/circulars.html

Terry Edwards
Assistant Director (Pensions)
August 2004

Appendix 1

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5 July 2004
LGR 102/12/5
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Dear Paul
The Draft Local Government Pension Scheme (Amendment) (No 2) Regulations 2004

The Employers' Organisation for local government and the Local Government Pensions Committee (LGPC) welcome the opportunity to comment on the policy proposals contained in the above draft regulations. We will be sending a separate letter offering comments on the finer drafting points of the regulations.

As stated in our initial submission of 17 April 2003, we believe that the basic structure of the Local Government Pension Scheme (LGPS) as a final salary scheme is best placed to deliver the security of the pensions promise. We recognise, however, that "the LGPS must be regulated on the basis of fairness and affordability, and be proportionate in terms of the balance between the benefits which are provided for its members and the costs which are incurred by its providers". The Scheme should also support the aim of retaining and making better use of the older workforce. We are, therefore, and subject to the detailed comments below, fully supportive of the policy proposals contained in the draft regulations.

Removal of the '85 year rule'
In recognition of the inherent cost attached to the increasing longevity of Scheme members, and coupled with the objective of retaining people in the workforce for longer, we accept the need for the removal of the '85 year rule'. This accords with the Government's aim of raising the normal pension age in the non-uniformed public sector schemes to age 65.

The White Paper *Simplicity, security and choice: Working and saving for retirement – Action on occupational pensions (Cm 5835)* envisages that by the end of 2006 all new staff joining public service pension schemes will join with a normal pension age of 65. We are, therefore, and subject to our comments later in this letter regarding industrial relations, supportive of the removal of the '85 year rule' for new staff from 1 April 2005 as the timing will not place local government employees and employers at any serious disadvantage in terms of pension provision compared to the rest of the public sector.

With regard to existing members, we are again, and subject to our comments later in this letter regarding industrial relations, supportive of the removal of the 85 year rule for membership accruing on or after 1 April 2005.

The draft regulations propose that there will be transitional protection for existing members who would both be aged 60 or over and satisfy the 85 year rule by 31 March 2013. For such members, the 85 year rule will be removed in respect of membership accruing on or after 1 April 2013. This accords with paragraph 33 of Chapter 4 of the White Paper which states that "public servants within their last decade before retirement .. are unlikely to be affected given the timescale for the reviews and the need for transitional arrangements." Whilst we were initially supportive of transitional protection for older members on the basis that they may have planned their finances (mortgage, children's education, etc) on the strength of the existing rules and would have insufficient time to rearrange their financial situation, we have considered the matter in more detail and have concluded that the additional protection afforded to such members is not proportionate. We therefore feel that a common date for the removal of the 85 year rule for ALL members would be fairer. This may best be illustrated by the following examples.

The transitional protections contained in the draft regulations would produce the following results:

<u>Member 1</u>
A member retires at age 60 on 31 March 2013 and has 25 years membership on that date. The member meets the criteria for the transitional protection and so his benefits would be paid in full with no actuarial reduction.

<u>Member 2</u>
A member retires at age 60 on 31 March 2013 and has 24 years 364 days membership on that date. He does not meet the criteria for the transitional protection. The 8 years worth of benefits accrued in respect of membership after 31 March 2005 would thus be subject to an actuarial reduction: 33% off the pension and 11% off the lump sum.

<u>Member 3</u>
A member retires at age 60 on 1 April 2013 and has 25 years membership on that date. He does not meet the criteria for the transitional protection. The 8 years and 1 days worth of benefits accrued in respect of membership after 31 March 2005 would thus be subject to an actuarial reduction: 33% off the pension and 11% off the lump sum.

Hence, Member 1 receives benefits in full whereas Members 2 and 3 suffer significant reductions to the benefits accrued after 31 March 2005 simply because Member2 has one days less membership than Member 1, and member 3 was born one day later than Member 1. This does not produce proportionate results.

Conversely, a common date for the removal of the 85 year rule (with no transitional protections) would produce proportionate results. This may best be illustrated by the following examples, which assume a common date of 1 April 2005 for the removal of the 85 year rule[3]:

<u>Member 4</u>
A member is aged 59 on 31 March 2005 and decides to retire one year later at age 60. Only the 1 years worth of benefits accrued in respect of membership after 31 March 2005 would be subject to an actuarial reduction: 33% off the pension and 11% off the lump sum. The final 12 months of service would, therefore, count as 8 months when calculating the pension and slightly over 10.5 months when calculating the lump sum. Hence, the effect on this member's benefits would be marginal (and could easily be offset by working slightly longer).

<u>Member 5</u>
A member is aged 54 on 31 March 2005 and decides to retire 6 years later at age 60. The 6 years worth of benefits accrued in respect of membership after 31 March 2005 would be subject to an actuarial reduction: 33% off the pension and 11% off the lump sum. The final 6 years of service would, therefore, count as 4 years when calculating the pension and slightly over 5.3 years when calculating the lump sum.

The above shows that the effect of a having a common date for the removal of the 85 year rule would produce proportionate results. The older a member is on 31 March 2005, the less effect the removal of the 85 year rule has.

We recognise, however, that the commitments given in the White Paper to older members mean that the introduction of a common date for the removal of the 85 year rule is unlikely. We do, however, remain concerned that providing a specific transitional protection for certain older members could potentially be open to challenge under the forthcoming age discrimination legislation.

<u>Increasing the earliest age at which LGPS benefits may be paid, other than on the grounds of ill-health, from 50 to 55</u>
The White Paper sets out the Government's proposal that the earliest age at which a pension can be paid, other than on the grounds of ill-health, should be increased from age 50 to age 55 by 2010 but leaves it to individual schemes to decide when, and how, to implement the change.

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[3] Although our actuarial adviser estimates that, compared to the current proposal of 2005 for most members and 2013 for a sub-set of members, a cost neutral common date applicable to ALL members would be roughly April 2006.

We note that paragraph 2.8 of the Government's proposals on Simplifying the Taxation of Pensions says "Respondents were concerned that there should be protection for active and deferred members of occupational schemes with an existing contractual right to draw a pension after age 50, typically in the event of redundancy. To meet the concerns of those with existing contractual rights at A-day, the Government proposes that any member of an occupational scheme, active or deferred, with a contractual right to draw a pension after age 50, may[4] have that right honoured, so long as: that right was extant before the date of issue of this document[5]; the pension is fully vested when the right is honoured; and the employment terminates before the pension is vested." We are mindful of the fact that when current members joined the LGPS they were informed in their Scheme Guides[6] that, should they be made redundant (or be retired on efficiency grounds) when aged 50 or over with 2 or more years scheme membership[7] they would be entitled to the immediate payment of unreduced pension benefits. Whether or not this is a "contractual right" is not absolutely clear.

We understand that, before issuing the draft Local Government Pension Scheme (Amendment) (No 2) Regulations 2004, the ODPM will have taken legal advice on whether or not a contractual right exists. On that basis we are supportive of the increase in the minimum retirement age from 50 to 55 with effect from 1 April 2005, but with protection for those who are aged 50 or over on 31 March 2005 (i.e. such members will retain an age 50 minimum retirement age). Our support is, however, subject to paragraphs 20 and 21 of Schedule 34 of the Finance Bill 2004 which appear to provide additional protection to people who are active members of the Scheme on 5 April 2006 and who would have had the right to immediate payment of benefits upon redundancy or efficiency retirement at or after age 50. Such members would appear to be able to continue to draw benefits upon redundancy or efficiency retirement at age 50 or over, even beyond 2010. The interaction of the Finance Bill and the LGPS will need to be addressed.

If the Finance Bill does not impact on the LGPS it must be recognised that there may be individual cases across local government where employees have a clause in their contract regarding the payment of unreduced pension benefits at age 50+ if they are made redundant. The present wording of the draft regulations does not cater for this. The final regulations would, therefore, need to be phrased in such a way so as to also permit benefits to be paid on redundancy at or after age 50 and before age 55 where there was an existing contractual right at 9 December 2003.

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[4] Although paragraph 2.8 uses the words "may have the right protected", paragraph 2.17 uses the words "will have that right protected".
[5] The document was issued on 10 December 2003
[6] Albeit that many guides would have included a relevant disclaimer such as "In the event of any dispute over your pension benefits the appropriate legislation will prevail as this guide does not confer any contractual or statutory rights and is provided for information purposes only."
[7] This was reduced from 1 April 2004 to 3 or more months membership (or less than 3 months membership but the person had transferred other pension rights into the LGPS).

One final point to mention is Regional Assemblies and the potential for further local government reorganisation. Clearly, increasing the earliest retirement age from 50 to 55 may adversely impact on the ability of authorities to manage a reorganisation unless

a) special arrangements are made, or
b) the additional protections in the Finance Bill apply to the LGPS.

Industrial relations

We recognise that the proposed changes to the LGPS, even with the transitional arrangements, will inevitably lead to a number of complaints, and possibly even challenge, from those existing members who are not covered by the transitional arrangements set out in the draft regulations, particularly as the figures shown on Annual Benefit Statements, which many members have received for several years, will (for some members) clearly be seen to drop as a result of the removal of the 85 year rule. The feeling of unease amongst existing members will be understandable given that changes to the existing LGPS arrangements have not, in the past, been made that detrimentally affect the future rights of existing members.

We have consulted with colleagues in SOCPO about the proposed changes and the perceived lack of parity of treatment, in terms of implementation dates and transitional protections, between members of the LGPS and the other public sector schemes. It is clear that the proposed changes to the LGPS for existing staff from 1 April 2005 will have material industrial relations implications for local government and, relative to the rest of the public sector, for recruitment and retention if the other non-uniformed public sector pension schemes do not introduce changes at a similar pace to the LGPS. Nevertheless, whilst the lack of parity of treatment is of significant concern, the need to balance the benefits provided to Scheme members against the costs incurred by authorities and local council tax payers is of primary importance. It is hoped that the combination of:

a) the retention of the 85 year rule for membership up to 2013 for those members who will both be age 60 or over and meet the 85 year rule by 31 March 2013, and
b) the retention of age 50 as an earliest retirement date for those aged 50 or over on 31 March 2005, and
c) the retention of age 50 as an earliest retirement date (on redundancy or efficiency grounds but not early retirement under regulation 31 of the LGPS Regulations 1997) for members (of any age) who are in the Scheme on 5 April 2006 (if the Finance Bill provisions are built into the LGPS)

will help to assuage certain elements of the Scheme membership. It is also recognised that the removal of the 85 year rule will not, in fact, affect the many members who under the current LGPS Regulations would not have satisfied the 85 year rule before age 65. The actuarial reduction applied to their benefits, should they voluntarily retire before age 65, would be the same under both the pre and post amended Regulations.

Conclusion
We are supportive of the Phase 2 proposed changes to the LGPS which we see as being necessary to secure the long-term stability and sustainability of the Scheme. The changes represent a significant shift in the remuneration package offered to staff and the potential impacts need careful consideration before final decisions regarding implementation dates and transitional protections are taken.

Yours sincerely

TBEdwards

Terry Edwards
Assistant Director (Pensions)

Appendix 2

Press release

16 August 2004

Employers' Organisation for local government backs changes to the Local Government Pension Scheme

The Employers' organisation for local government has come out in support of changes that the Office of the Deputy Prime Minister is proposing to make to the Local Government Pension Scheme in England and Wales from April 2005.

The ODPM is proposing that:

- in respect of benefits accruing from membership after 31 March 2005[8] the Scheme's Normal Payable Date will be age 65. If the benefits in respect of the post 31 March 2005 Scheme membership are drawn at age 65 they will be paid in full; but if they are voluntarily drawn before age 65 they will be paid at an actuarially reduced rate.

- for the benefits that members have already accrued up to 31 March 2005 the Scheme rules will be unaltered i.e.
    - the benefits, if paid at age 65, will be paid in full;
    - if voluntarily drawn between 60 and 65, and the member's combined age and service is 85 years or more (the '85 year rule'), the benefits will be paid in full;
    - if voluntarily drawn between 60 and 65 and the member does not meet the 85 year rule, the benefits will be paid at an actuarially reduced rate.

It is also proposed that:

- the earliest age at which benefits can be paid from the Scheme will be increased from age 50 to age 55. This would affect those members who, provided they obtain their employer's consent, wish to voluntarily retire before age 60 and members who are retired on the grounds of redundancy. The change will not affect Scheme members who are aged 50 or over on 31 March 2005 nor will it affect members who are retired on the grounds of permanent ill health.

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[8] For those current Scheme members who will be aged 60 or over by 31 March 2013 and whose combined age and Scheme membership on that date will equal or exceed 85 years, the effective date of the change in the Scheme's Normal Payable Date will be 31 March 2013 rather than 31 March 2005. This affords an additional degree of protection to older, longer serving, Scheme members. The Employers' Organisation for local government would, on balance, have preferred a common date for all Scheme members but recognise that assurances have been given by the Government that additional protection will be provided to older Scheme members.

Councillor Roy Wilson, chairman of the Local Government Pensions Committee commented, "We have considered the proposals carefully and have sought to balance the views of the employers that we represent. Whilst we believe that the basic structure of the Local Government Pension Scheme as a final salary scheme is best placed to deliver the security of the pensions promise to the local government workforce we recognise that the Scheme must be regulated on the basis of fairness and affordability. A fair balance needs to be struck between the benefits which are provided to Scheme members and the costs which are incurred by the employers and local tax payers. In order to strike that balance, and in recognition of the increasing life expectancy of Scheme members, coupled with the objective of retaining experienced people in the workforce for longer, we are supportive of the changes that the ODPM is proposing to make to the Local Government Pension Scheme."

ENDS

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Note to editors:

1. The Employers' Organisation for local government is the national body representing local authorities as employers.
2. The Local Government Pensions Committee is the national body representing the pension interests of local authorities.
3. The proposals to amend the Local Government Pension Scheme result from a Stocktake of the Scheme that the Office of the Deputy Prime Minister commenced in the Summer of 2001. The current proposals can be viewed at www.xoq83.dial.pipex.com/inlandaa.htm Please note that the link contained in that document displayed at that web address is now incorrect and that the correct link is www.xoq83.dial.pipex.com/aafaq.htm

Office of the Deputy Prime Minister

Creating sustainable communities

Appendix 3

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5 August 2004

Local Government Association
Employers Organisation
Association of Consulting Actuaries
TUC Pension Co-ordinator - UNISON
Chartered Institute of Public Finance and Accountancy
Society of County Treasurers
Association of District Treasurers
Society of Welsh Treasurers
Society of Metropolitan Treasurers
Society of London Treasurers
Society of Chief Personnel Officers

LOCAL GOVERNMENT PENSION SCHEME

This letter seeks to address several issues which, collectively, affect the context within which ODPM is presently implementing a programme of modernising changes to the LGPS.

Background

ODPM Ministers are on record regarding their intentions to ensure that the LGPS continues to meet the needs of all of its stakeholders. Their policy approach to the LGPS – a strategy based on its affordable retention - accords with the Government's overall wish to see the continuation of defined benefit pension schemes being available to public service employees. At the same time, the guarantees that surround such arrangements, underpinned as they are by taxpayers, require them to be kept under review, to reflect best practice and to be cost-effective both in terms of their provision and delivery.

Funding Strategy Statements (FSS's)

The requirements now in the LGPS Regulations that administering authorities in England and Wales must produce a FSS was announced in the Office's letter of 11 March, covering amending regulations which came into force on 1 April 2004. References in that letter highlighted the important future role to be played by FSS's in the Scheme, particularly in connection with the Strategy and programme of regulatory amendments announced by Ministers in July 2003, and the requirement that actuaries, engaged in completion of the 2004 valuation, should take such statements into account when setting future employer contribution rates.

Equally as significant is the need for LGPS authorities to maintain the interaction between Scheme solvency, the FSS, and each fund's Statement of Investment Principles. This relationship is an important factor in how each administering authority, with its advisers, opts to meet the likely increases in employers' costs for the next triennium, 2005/06 – 2007/08, and beyond. The potential impact that increases in employers' costs may have on local authority resources, and any subsequent effect on authorities' council tax bills, is something which all LGPS interests, including elected members at all levels, will need to assess carefully as the closing stages of the 2004 actuarial valuation exercise are taken into account in the timescale of the 2005/06 budget setting processes in particular.

ODPM Ministers recognise the opportunity available to LGPS administering authorities in England and Wales to maximise local authorities' constitutional status when dealing with pension liabilities in the forthcoming and subsequent valuation periods. This is fully recognised also in the guidance prepared by CIPFA and which is itself referred to in the 2004 regulatory amendment (regulation 76A) to the principal regulations.

Within the extant regulatory framework, administering and employing authorities already have the necessary means, therefore, to minimise the impact of employers' cost increase from April 2005 by:-

- prudentially maximising recovery periods;
- phasing the level of actuarially set employers' contribution increases over the forthcoming and subsequent valuation periods, on a year by year basis, if necessary;
- adopting realistic and appropriate assumptions for future inflation, pay increases and other actuarially sensitive variables which can favourably (or adversely) influence the outcome of the valuation; and
- prioritising the need for expensive early retirements.

Against that background, Ministers wish to ensure that in the carrying out and developing the subsequent outcomes of the 2004 valuation everything is done to maintain the ongoing affordability of the Scheme. Further advice will follow in due course, but, for the present, LGPS administering authorities particularly, and their advisers, are asked to note the current and continuing necessity of minimising any significant increases on employers' costs which could in turn lead turn adverse effects on local authority council tax demands from April 2005.

It would be useful to know about what general progress is currently being made by administering authorities in the preparation of their funding strategy statements, and how key stakeholders – particularly other local authority employers – are being involved in the new processes. An early indication also of what recovery periods and stepping arrangements could be usefully included to inform the ongoing assessment of the management of cost implications. Copies of the statements, as they are finalised, could be sent to Bob Holloway either by e-mail to robert.holloway@odpm.gov.uk, or by post to Zone 2/F6, Ashdown House, 123 Victoria Street, London, SW1E 6DE.

Press Issues

Recent press reports have continued to demonstrate the sensitivity of UK public service pension scheme provision, notwithstanding the considerable policy and legislative efforts that are underway to ensure affordability, cost stability and sustainability. In the context of the LGPS, press reports on anticipated adverse results as an outcome of the 2004 valuation, now currently underway, only serve to raise spurious and unnecessary questions about the Scheme's future, which in turn provokes alarm within the membership.

To manage these unfortunate incidents LGPS stakeholders, either collectively or bi-laterally, may be in a position to agree a response to counter such press articles. Some interests have already produced helpful and positively reassuring statements and placed well prepared reference material on their websites. ODPM's website has been amended recently and will be kept up to date as developments unfold.

Responses to the 31 March consultation exercise on proposed changes to the LGPS

An initial assessment of responses to our 31 March statutory consultation exercise on draft amendments to the Local Government Pension Scheme Regulations 1997, programmed for implementation with effect 1 April 2005, suggests that a small but significant number of current LGPS members have been either under-informed, or inappropriately advised about ODPM's intentions regarding the affordability and sustainability of the Scheme.

It is of concern if members, in certain parts of the Scheme's framework, are not being comprehensively briefed on what the changes are designed to achieve, why and how they, as contributors, could be affected, how the proposed statutory protections will apply and of the consequences if the amendments proposed do not materialise. At the same time, it follows that those who are not affected should be totally re-assured. This is a prime task for providers and employers in the current pension climate, as well as other influential interests. All LGPS stakeholders have a collective responsibility to re-affirm the Scheme's qualities and to do all that is possible ensure its retention.

It is explicitly acknowledged in the Office's letter of 31 March 2004 that statutory transitional protections are proposed to ensure that existing Scheme members who are close to retirement will not be adversely affected by the change in regulation. Unfortunately, in many of the responses received to the statutory consultation unnecessary concern has been generated in the minds of LGPS members. The attached summaries of our comprehensive website Q&A

advice at www.xoq83.dial.pipex.com could help to explain the position more adequately for the benefit of Scheme members and all stakeholders.

Liaison

ODPM intends to maintain its already well-established close liaison with key stakeholders. Regular stakeholder discussions are underway and levels of mutual understanding of the complex issues surrounding the LGPS and its future are high. Going forward, this needs to be maintained on both a collective and bi-lateral basis and indeed to be extended, if Ministers agree. ODPM is grateful for the considerable commitment and continuing assistance being given by stakeholders at all levels at this challenging time.

T B J CROSSLEY

Appendix 4

ODPM proposals to amend the Local Government Pension Scheme.
This note explains the changes that the Office of the Deputy Prime Minister has recently consulted on to amend the Local Government Pension Scheme in England and Wales. It is proposed that, subject to Ministerial approval, the changes will take effect from 1 April 2005.

What is proposed?

1. That the 85 year rule is removed from the Scheme for service from 1 April 2005. However, where members were born before 1 April 1953, only service after 31 March 2013 will be affected.

2. That the minimum age benefits can be paid, other than on the grounds of permanent ill health, is increased from age 50 to age 55 with effect from 1 April 2005. But not for current members who were born before 1 April 1955.

1. Who is not affected by the removal of the 85 year rule?

If you will be 60 or over before 1 April 2013 and you will satisfy the current 85 year rule by then, the benefits you accrue up to that date will not be affected by the changes. However, benefits you accrue from membership after 31 March 2013 will be reduced if you choose to have your pension paid before you are 65.

If you will not satisfy the 85 year rule before you reach age 65, you are not affected by the changes. Your benefits under the current Scheme would be reduced if paid before your 65th birthday and the amount of the reduction after the proposed changes have been made will be exactly the same. Therefore, the proposed changes do not affect you.

What is the 85 year rule?

The 85 year rule is a test which is used to calculate whether your pension benefits should be reduced if they are paid to you before you reach age 65.

Under the current rules, if you ask for your pension to be paid before age 65 it will be reduced to reflect the cost of paying it to you early, unless you satisfy the 85 year rule.

This is the test:
Age (whole years) + LGPS membership (whole years) = at least 85 years

If your age and membership does not equal at least 85 when your benefits are paid, your benefits, if paid before age 65, could be reduced.

Note: If your employment ends because of redundancy, efficiency or ill-health retirement, then LGPS benefits are not subject to a reduction if paid early.

What will the test be in the future?

All benefits from membership of the Scheme after 31 March 2005 will be reduced if you choose to have your pension paid before you are 65.

BUT, all membership up to and including 31 March 2005 is protected. Benefits from this period will not be reduced if you satisfy the 85 year rule when your benefits are paid.

What would the changes mean?

The changes would mean that for service from 1 April 2005 the earliest age at which unreduced LGPS benefits will be paid is 65. If benefits are paid before age 65 they would be reduced to reflect the cost of paying them early unless:

- benefits are paid earlier due to ill-health or redundancy / efficiency, or
- benefits are paid before 1 April 2013 to a member who would be 60 or over by 31 March 2013 and would satisfy the 85 year rule by that date.

All membership up to and including 31 March 2005 will continue to be treated as it is now.

Does this affect when you can retire?

No - the 85 year rule has nothing to do with when you can retire.

- The Scheme allows you to choose to receive your pension from age 60 onwards (if your employment has ended).
- If you voluntarily cease your employment after you reach age 55 (or after age 50 if you were born before 1 April 1955) but before you reach age 60 you can ask for your pension to be paid. BUT it is up to your employer to decide whether to agree to pay pension before age 60. There is no right to receive a pension before age 60, so you should not assume that your employer will agree to pay it. Each employer has a written policy on how they will consider whether to pay a pension before age 60.

However, if your employment ends because of permanent ill health your benefits would be paid immediately, regardless of age and without reduction. If your employment ends by reason of redundancy or efficiency unreduced benefits would be paid immediately if at that time you are aged 55 or over (or aged 50 or over if born before 1 April 1955).

Why are the changes being made?

On average, people are living longer. This means pension schemes pay benefits to members for longer after they retire. The cost to the Pension Fund of paying your pension is therefore greater because pensions will be paid for a longer period of time.

To ensure that the cost of paying pensions in a final salary scheme, like the LGPS, can continue to be affordable, there are two changes that can be made

- Where payment of a normal pension starts before age 65, the annual amount paid will be less to reflect the fact that on average the pension will be paid for longer; or

- An unreduced annual pension can be paid, but generally not before age 65.

This is what the proposed changes to the LGPS are designed to achieve.

2. The Minimum Benefit Age Increase

The earliest age at which you can receive a pension is being increased to age 55. What does this mean to you?

Currently, unless retiring on health grounds, a member must be 50 or over before a pension can be paid. From 1 April 2005 a pension will not be paid to a member before age 55, unless the pension is paid due to ill-health.

This means that in the future you will not be able to ask your employer to pay your pension until age 55 at the earliest. The employer can still decide not to agree to pay your pension until age 60.

Also, a pension will not be paid immediately to a person who is made redundant on or after age 50 and before age 55.

Who is not affected by the change?

If you were born before 1 April 1955, this change does **not** affect you.

If you were born after 31 March 1955 the earliest age at which a LGPS pension can be paid to you is 55, unless you become entitled to an ill-health retirement pension.

Further information?

The ODPM website contains examples of how the proposed changes would affect certain members. It is available at: http://www.xoq83.dial.pipex.com/afaqx.htm

You may also wish to consider asking your pension fund administrators for further information. If you are uncertain who to contact, your employer should be able to provide you with the appropriate details.

Appendix 5

ODPM proposals to amend the Local Government Pension Scheme in England and Wales

In November 2003 ODPM issued a discussion paper to interested parties about proposals for the future of the LGPS. Following an assessment of the responses to that consultation exercise, draft amendment regulations were circulated to stakeholders in England and Wales on 31 March for their comments by 30 June. The responses to that exercise are being carefully considered and new regulations are planned to come into force in April 2005.

The regulatory steps being taken to amend the LGPS will be matched by analogous changes to the other public service pension schemes to reflect Government policy set out in the June 2003 White Paper *Simplicity, security and choice; working and saving for retirement* (Cm 5835) and the December 2003 paper *Simplifying the taxation of pensions; the Government's proposals,* published by Inland Revenue.

The draft regulations propose to increase the minimum retirement age in the LGPS from age 50 to age 55 and to remove the 85 year rule for all future service. In affect the removal of the 85 year rule will mean that the normal retirement age in the Scheme is 65 for all members, if benefits are paid before that age they will normally be reduced to reflect the additional costs of paying them earlier.

All members' accrued pension rights will be fully protected as these necessary changes are made to the LGPS to ensure both its current affordability and its on-going sustainability.

The Office's proposals for the LGPS are part of a wider Government agenda that recognises that people are living longer and the need to deal with the changing ratio of the economically active population to those in retirement in the UK. The agenda seeks to meet the social and economic challenges of these demographic changes by encouraging people to work longer, to help stabilise the affordability of pension provision and to improve the retention and transfer of knowledge and skills in the workforce.

In the context of the LGPS, they form an essential element in moves to ensure the long term sustainability of the Scheme and to stabilise costs over the longer term. To delay the implementation of these regulatory changes, or to ignore the costs that the Scheme employers are trying to manage, could lead to pressure to change the fundamental nature of the LGPS.

In response to legitimate concerns about the protection of existing LGPS members who are close to retirement and may not have sufficient time to make alternative financial arrangements following any changes to the Scheme, the proposed changes contain specific statutory protections. These protections are based on responses to the November 2003 consultation exercise and have already been welcomed by leading LGPS stakeholders, including the Employers' Organisation for Local Government.

All LGPS consultation documents are available at the following website, which also contains a summary of the proposed changes and examples of how they could affect certain members:
http://www.xoq83.dial.pipex.com

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Website

Visit the LGPC website at:
http://www.lg-employers.gov.uk/pensions/index.html

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