

LGPS interests in England and Wales  
(Addressees as attached)

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Dear Colleague

**DRAFT LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) (No 2)  
REGULATIONS 2006**

With the agreement of Ministers, I now enclose draft amending regulations for your comments, **no later than 3 July**. This period of statutory consultation follows the earlier 12-week consultation on the draft Local Government Pension Scheme (Amendment) (No.3) Regulations 2005 and the detailed ongoing discussions between the key stakeholders which have been underway since the end of March. Subject to the outcome of this consultation exercise, these regulations will be made and laid before Parliament prior to the summer Recess.

**Background**

Consultees will recall that the Government's Statement to Parliament on 30 March re-affirmed its commitment to secure the continued affordability and viability of the Local Government Pension Scheme, and to provide secure, equality-proofed pensions for its existing and future membership, without placing an unfair burden on taxpayers.

The Local Government Pension Scheme (Amendment) Regulations 2006 which remove the 85 year rule from the Scheme from 1 October 2006, in order to comply with Council Directive 2000/78/EC, are now in force. The regulations also provide protection for existing scheme members who will be 60 and who satisfy the 85 year rule by 31 March 2013. They also introduced significant and well supported flexibilities into the scheme's legal framework to reflect the simplified tax regime provided by the Finance Act 2004.

The Statement, in addition, expressly invited local government employers and trades unions to begin talks to: -

- further address the protection of existing scheme members,
- consider the recycling of savings; and
- discuss the development of a more equitable scheme.

It was made clear also in the Statement that the Government was prepared to introduce further amendments, before the summer Recess, to update the regulations in the light of any agreed proposals which emerged from the talks between the trades unions and local government employers.

### **Proposals from the Local Government Association and the Trade Unions**

Proposals from the LGA and the trade unions have now been received by the Department. Ministers have concluded, after consideration, that the essential terms of the submissions are affordable and legal and that, consequently, it would be appropriate to proceed to amend the Local Government Pension Scheme Regulations 1997 with effect from 1 October 2006, subject to consultation with all the interested parties in England and Wales.

Consultees may wish to note the nature of the changes and their implications. The revocation of the LGPS (Amendment) (No. 2) Regulations 2004 has continued the provision of the rule of 85 until 30 September 2006. These amendments will extend this continuation, for all current members at 30 September 2006, up to 31 March 2008, the date before the intended introduction of new LGPS arrangements. This will provide continuity and security for existing scheme members between the removal of the 85 year rule at 1 October 2006 and the intended start of a new-look scheme at 1 April 2008.

The proposed changes also extend the 31 March 2013 protection, as set out in the schedule to the LGPS (Amendment) Regulations 2006, to 31 March 2016, for those who would have satisfied the rule of 85 and will be 60 by that date. This extends the protection for those scheme members closest to retirement, from within 6.5 years of retirement to within 9.5 years of retirement, who are likely to have insufficient time from the date of the removal of the rule of 85 to make alternative arrangements for their retirement.

At the end of this extended period of protection, it is also proposed to introduce measures to overcome the perceived "cliff-edge" relating to the current protection, which a number of individuals commented on in responses to earlier consultations. This cliff-edge resulted in different treatment between members satisfying the rule of 85 at 60 at 31 March 2013, suffering no reduction to their pension, and members satisfying the rule of 85 at 60 at 1 April 2013, who suffered a full reduction on their post 1 October 2006 service.

It is proposed to introduce new reduction factors, to be provided by GAD, which will apply from 1 October 2006, to those existing scheme members at 30 September 2006, who would have satisfied the rule of 85 and will be 60 by 31 March 2020. These reduction factors will be applied on a phased basis in respect of the period of membership accruing between 1 April 2008 and their date of retirement. The taper would allow a progression from zero reduction as at 31 March 2016 - for those members covered by the proposed extended protection - to full reduction on the post 2008 period of membership, for members choosing to retire before the Scheme's normal retirement age on and after 1 April 2020. The relevant GAD guidance will set out how this phasing may vary in individual cases.

### **Other amendments**

In addition, a number of essentially technical clarifications need to be made to the Local Government Pension Scheme (Amendment) Regulations 2006 introduced from 6 April as part of introducing the new HMRC tax regimes, which was commented on by a number of

individuals who responded to the earlier consultation exercise. These amendments are intended to deliver on the matters set out in the Department's advisory letter of 13 April to LGPS interests in England and Wales.

### **Wider Scheme developments**

Consultees will be very aware that considerable effort is going into the costing and design of various options for the reform of the LGPS and the development of new arrangements for 2008. These will take full account of the implications for the Scheme of this consultation package, and how the cost of extending protections has resource implications for the new Scheme. The recent Department for Work and Pensions White Paper proposals for the reform of state pensions will of course, also need to be taken into account in the design process.

The Government's strategic policy for the Scheme is to provide good quality pensions for local authority workers which are affordable, viable and fair to taxpayers. The objective not to add additional burdens on council tax payers remains strongly at the forefront of Departmental thinking.

The intention remains to consult widely, in the near future, on a number of costed, realistic options for a new-look LGPS, with the objective of having modernised arrangements in place for April 2008. Subsequently, draft amending regulations are programmed to come forward for consultation, before the end of the year, as part of the development process.

### **Reponses**

Your comments on the enclosed about regulations should be sent to Nicola Rochester Local Government and Firefighters' Pensions Schemes Division, Department for Communities and Local Government, Zone 2/F6, Ashdown House, 123 Victoria Street, London SW1E 6DE.

Electronic responses can be sent to [nicola.rochester@communities.gsi.gov.uk](mailto:nicola.rochester@communities.gsi.gov.uk).

A summary of responses to this consultation will be published within 3 months of the close of consultation at [www.xoq83.dial.pipex.com](http://www.xoq83.dial.pipex.com)

This consultation follows the Government code of practice on consultations, which is attached at Annex A.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality

disclaimer generated by your IT system will not, or itself, be regarded as binding in the Department.

The Department will process your personal data in accordance with the DPA and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Yours sincerely,

**T B J CROSSLEY**

(Full address of LGPS Schemes and Annex A – Policy on Consultation, removed by webmaster)