

8<sup>th</sup> February 2013

LGPS Regulations 2013  
Department for Communities and Local Government  
Zone 5/G6 Eland House  
Bressenden Place  
London  
SW1E 5DU

Your ref: Consultation 2013.1/MA  
Our ref: Consultation 2013.1/MA

Contact: Mike Allen  
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Dear Phillip

**DRAFT LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 2012**

I refer to the above consultation document issued on 21<sup>st</sup> December 2012.

The LPFA remains supportive of the proposals for the 2014 Scheme and are pleased to note that the regulations issued are in line with those contained in the informal consultation undertaken last summer.

In answer to the specific points where comments were sought I would confirm the LPFA views are as follows:

- a) We note your intention to rely on existing definitions of specific terms contained in the current regulations and have no specific suggestions as to how any of the new terms are defined. We would though ask that any such definitions should be open to reasonable interpretation and application, with appropriate guidance and examples available where needed. This could for instance include specific clarification, where needed, of the intention behind a specific definition to ensure consistency of application across funds.
- b) There are currently restrictions on scheme membership and retirement ages in the LGPS meaning that benefits must be paid and scheme membership cease at age 75. These restrictions have now been removed from overriding legislation the LPFA would agree to any such removal from the LGPS regulations. The incidence of such events is likely to be minimal and will have no impact on the overall funding of the scheme.

c) Where a member receives multiple ill health enhancement awards we would recommend that the existing restrictions which limit total membership of the scheme should be maintained. This would ensure that in this rare event where a member is retired on health grounds on more than one occasion that overall scheme membership is not greater than could have been accrued if they had worked to normal retirement age in the original post.

d) The recent ruling in the High Court in Belfast relating to the LGPS (Northern Ireland) is of particular interest to LPFA as we have had two cases recently where similar circumstances have applied. In our view we believe that the key factor in determining whether such a pension should be payable is the ability of the surviving partner to be able to demonstrate the true nature of their relationship through evidence of financial interdependency in accordance with the requirements of the Scheme. It is recommended that in terms of reasonableness it would be appropriate for administering authorities such as the LPFA to be able to exercise discretion in the award of such benefits provided that all criteria, apart from the completion of the relevant nomination form, are met.

The test for interdependency can be as stringent as felt necessary but it would seem unreasonable to deny payment of a dependents pension in circumstances where all requirements, apart from the completion of a form, have been clearly met.

There are also a number of technical issues which have been raised by Terry Edwards of the LGA which will need to be addressed, in particular there are a number of areas where he has identified a policy decision is required to provide clarification and certainty around the intent and meaning of specific regulations. Any clarification around these issues would be welcomed.

In addition we have received comments from our medical adviser around the changes to some of the wording contained around the ill-health provisions. In particular regulation 35 (5) refers to the reduced likelihood of being capable of undertaking any gainful employment purely repeating the second condition in regulation 35 (4), whereas the current (2007) regulations refer in stronger terms to no reasonable prospect of gaining any gainful employment under regulation 20 (2). If the final wording is as currently drafted there will be no tier 2 retirements as all will automatically qualify for tier 1.

Given that the intention is to leave the ill-health regulations unchanged it would seem sensible to mirror the current wording of the regulations to ensure consistency under the new scheme.

We look forward to receiving the further consultations on Councillor Pensions, Cost Control and Scheme Governance and will comment formally at that time. The LPFA though remain committed to helping ensure the scheme as a whole is governed and administered in the most effective and efficient way to help ensure the future viability and affordability of the scheme for all stakeholders.

Yours sincerely



Mike Allen

**Director of Pensions**