

6 June 2007

Addressees at Annex A

Our Ref:
Your Ref:

Dear Colleague,

**LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT)(No 3)
REGULATIONS 2007 SI 2007 No 1561**

1. With the agreement of Ministers, I enclose regulations made on 30 May 2007 under powers contained in section 7 of the Superannuation Act 1972 and laid before Parliament on 6 June. The regulations amend the Local Government Pension Scheme Regulations 1997 ("the 1997 regulations"). These regulations, which come into force on 30 June, add three new sections to the 1997 regulations on governance, pension fund annual reports and local administration strategy plans.

Governance compliance statement

2. Regulation 3 replaces existing regulation 73A of the 1997 regulations with a new section on governance compliance statements. In most respects, the requirements remain unaltered, except that under new regulation 73A(1)(c) and (d), an administering authority will be required to measure their governance arrangements against a set of best practice principles to be published by CLG later in the year as required by new regulation 73A(1)(c). The new regulations will also require an administering authority to state the reasons for not complying with any of the principles listed in the guidance.

3. In view of the comments from interested parties in response to the statutory consultation exercise earlier this year, it has been decided to delay the publication date of the first statement until 1 March 2008. This does not of course prevent an authority from publishing their statement before that date if they so wish.

4. A working draft of the best practice guidance has been prepared and issued to the CLG chaired working group on governance for their comments. The intention is that a final working draft will then be issued to all interested parties for further comment. The target date for publication is August 2007.

5. New regulation 73A(5) requires that copies of the statement (and any revised copy) must be sent to the Secretary of State. This will enable CLG to collate the responses, monitor experience and quality of results and publish its findings on the governance arrangements. It would help therefore if authorities could submit copies of their statement to the contact address below as soon as possible after they have been published.

Pension fund annual report

6. Regulation 4 inserts a new regulation 76B into the 1997 regulations by requiring the publication of pension fund annual reports and prescribing their content in legislation. The purpose of the new provision is to provide external auditors with the means to undertake separate audits of LGPS pension funds. In meeting this policy objective, care has been taken to ensure that as far as possible, the way in which administering authorities already prepare and publish fund annual reports can continue as before. With this in mind, although regulation 76B(1) will require an administering authority to prepare a document including the items listed in regulation 76(B)(a) to (k), primarily for the use of external auditors, new regulation 76(B)(2) also refers to the reports being published which, in the context of the regulation as a whole, will enable an authority to “signpost” the individual items in a simpler document, as an alternative to the hard copy report. Authorities are reminded that the use of the word “publish” in this regulation is to be given a wide import to mean to make accessible or available. It is also important to note that the final report may include items not listed in the regulation itself. The prescribed list should be seen as the minimum requirement, leaving authorities to add any other material as they see fit and to accord with local circumstances.

7. New regulation 76(B)(2) requires the report to be published on or before 1st December in the year following the year in relation to which it has been prepared and in accordance with guidance to be issued by CLG, in conjunction with CIPFA (new regulation 76(B)(3) refers). The first report will therefore be due by December 2008 in relation to the 2007/08 reporting period.

8. Although the final regulations no longer include the draft provision that would have required administering authorities to submit copies of their annual reports to the Secretary of State, authorities are encouraged to submit copies to the Department as previously.

Pension administration strategy

9. Regulation 4 also inserts into the 1997 regulations a new section (Regulation 76C) on the preparation and publication of local administration strategies.

10. Under new regulation 76(C)(1), an administering authority will have the discretion to formulate a local strategy plan to formalise the administrative arrangements between itself and participating employing authorities. The new regulations have been drafted to allow administering authorities as much flexibility as possible in formulating their local plans whilst, at the same time, giving participating employers and other interested parties, the opportunity to engage in its preparation.

11. In the light of comments received from consultees, several significant changes have been made to the draft regulations consulted on in January. Firstly, there is no longer any reference to the date by which the first plan has to be published. This will remove the anomaly whereby an authority who decided not to publish before the prescribed date would have been prevented from publishing any plan after that date. The provision now enables a local plan to be introduced at any time in the future. Although the new provisions still require the first local plan to be copied to the Secretary of State and relevant employing authorities, the requirement that copies of any revised plans should also be sent on the same basis has been deleted. Instead, the regulations will only require these parties to be notified of any changes and of where a copy of the revised plan can be obtained.

12. Given the local nature of these plans, the regulations make no reference to statutory guidance. However, it is recognised that administering and employing authorities, together with other interested parties, would find general guidance helpful, in particular, on the scope of the items listed in new regulation 76C(2). On this basis, the CLG chaired working group on scheme administration will commence work on such guidance as soon as possible after the regulations come into effect.

Additional costs

13. Regulation 5 includes a technical amendment to update existing regulation 81(2) which should have been amended when the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 were introduced and also amends existing regulation 81(1)(d) to extend the scope of administration costs paid by employing authorities to include any additional cost imposed on them under new regulation 81A(2). New regulation 81(3A) extends the existing right of appeal to the Secretary of State under regulation 81(3) to include disputes arising between administering and employing authorities by virtue of a notice for the payment of additional costs under new regulation 81A(2).

14. Regulation 6 introduces new regulation 81A which enables an administering authority to recover from one of its employing authorities, any additional costs it incurs because of that employing authority's level of performance in carrying out its functions under the scheme's regulations. Where an administering authority is of the opinion that such costs should be recovered, new regulation 81A(2) sets out the procedure for recovery.

15. The new regulations also have to provide for circumstances where the administering authority may have to recover additional costs from itself as an employing authority. Because these recovery costs are regarded as being additional to those regular payments for administration paid under existing regulation 81(1)(d), new regulation 81B has the effect of applying regulation 81(1)(d) to administering authorities.

17. During discussions with interested parties, a request was made that certain third party administrators and payroll providers who were not LGPS employing authorities, should fall within the scope of new regulation 81A. However, we are advised that we have no vires under the Superannuation Act 1972 to make such provisions and that the new power to extend the scope of existing regulation 81(1)(d) to include recovery costs for poor administration can only be applied to LGPS employing authorities. It

is, however, recognised that this situation is not ideal and CLG will shortly be inviting interested parties to a meeting to discuss how this particular issue can be resolved.

Contacts

The LGPS website is located at www.communities.gov.uk/lgps or www.xoq83.dial.pipex.com.

For enquiries on the content of this letter, please contact: -

Bob Holloway: robert.holloway@communities.gsi.gov.uk

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or please telephone 020 7944 5998.

Yours sincerely,

Bob Holloway

Annex A

ADDRESSEES

The Chief Executive of:

County Councils (England)

District Councils (England)

Metropolitan Borough Councils (England)

Unitary Councils (England)
County and County Borough Councils in Wales
London Borough Councils
South Yorkshire Pensions Authority
Tameside Metropolitan Borough Council
Wirral Metropolitan Borough Council
City of Bradford Metropolitan District Council
South Tyneside Metropolitan Borough Council
Wolverhampton City Council
London Pension Fund Authority
Environment Agency
Police Authorities in England and Wales
Fire and Rescue Authorities in England and Wales.
National Probation Service for England and Wales

Town Clerk, City of London Corporation
Clerk, South Yorkshire PTA
Clerk, West Midlands PTA

The Secretaries of:

Local Government Association
LGPC
Employers' Organisation for Local Government (LGE)
PPMA
SOLACE
ALACE
CIPFA
New Towns Pension Fund
ALAMA
UCEA
NALC
SLCC
Society of County Treasurers
Society of District Council Treasurers
Society of Welsh Treasurers
Association of Metropolitan Treasurers
Society of London Treasurers
Association of Consulting Actuaries
Northern Ireland Public Service Alliance

Trades Union Congress
UNISON
TGWU
GMB
UCATT
Aspect
Amicus
NAPO
Association of Educational Psychologists

Audit Commission

NILGOSC

Confederation of British Industry
Business Services Association

Other Government Departments with public service pension interests:

GAD

DoE (NI)

SPPA
