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Ms C Hine-Haycock  
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Ashdown House  
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28<sup>th</sup> February 2007

Dear Ms Hine-Haycock

### **Draft Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007**

I write in response to the above consultation exercise relating to proposed changes to the Scheme effective from April 2008.

There are a number of technical issues identified by the LGE in their Circular 194 which the LPFA agrees are in need of clarification and amendment to ensure consistency of terminology within these and related regulations. The LPFA also agrees it would be helpful if, where possible, the terminology in the 2007 Regulations mirrored that in the Finance Act 2004, e.g. references to a "death grant" should be replaced by references to a "lump sum death benefit".

With reference to the actual regulations themselves the LPFA makes the following comments and observations:

#### **Regulation 1**

It would be helpful if the definitions of whole-time, part-time and variable time were clarified to reflect the definitions already contained within existing Part-time workers regulations.

#### **Regulation 3**

In its initial consultation response the LPFA confirmed that it could support the concept of tiered contributions if a final salary scheme was retained. In reality the implementation of such contributions is likely to be complex to administer and monitor to ensure accurate and fair contributions are deducted from salaries. There are significant numbers of members with multiple posts with one or more employers within Local Government and any structure for tiering contributions will need to reflect this.

There appear two possible methods for achieving this, either in line with the proposals put forward by LGE in that a tiered rate of contribution is determined at the date of joining and at the commencement of each financial year thereafter or a mechanism similar to National Insurance contributions whereby earnings below a monthly/weekly limit attract a 5.5% deduction and those above that limit the higher rate of contribution. In both instances such deductions should be made against the whole time equivalent salary.

LPFA have already discussed the practicalities of tiered contributions with a number of our employers and third party contractors who have confirmed that significant reprogramming of existing payroll systems will be required to ensure the correct deductions can be made, as well as increased complexity in notifying end of year pay data required for among other things the production of annual benefits statements. It is important that the impact of any such regulations on other areas is not ignored and that all interested parties are consulted with as the process unfolds.

The level of tiering proposed is also unlikely to have any real impact on encouraging lower paid and part-time employees to join the Scheme, given that potential members would only see a minimal reduction in contributions payable, e.g. a person working ½ time on whole time equivalent earnings of £14,400 would pay approximately 50p per week less into the scheme.

## **Regulation 7**

Although in principle the LPFA can accept an extended historic period for determining pensionable pay there are a number of practical issues to be considered as follows:

It is most unlikely that full historic data back to 1998 will be available to make relevant calculations for members retiring after the new regulations come into effect. LPFA therefore believes it should only be service after 1<sup>st</sup> April 2008 that should be relevant for such calculations.

Additionally only pay with the relevant employer at the time of leaving should be taken into account when determining final pensionable pay, unless an election to transfer previous Local Government benefits to that employment has been made and that period falls within the last 10 years.

LPFA also believes it would be sensible to use historic pay data for relevant financial years i.e. the period April to March irrespective of the calendar date the member actually leaves the scheme. For employing and administering authorities to maintain detailed data over a 10 year period to enable accurate calculations to be made against a specific 'day' would prove administratively burdensome.

Again we have had initial discussions with stakeholders who have expressed similar concerns as to the potential amendments that may need to be made to existing systems to comply with the relevant changes.

### **Regulation 10**

The LPFA is supportive of the concept of flexible retirement for scheme members but has two specific concerns with the regulation as proposed.

Where a member is allowed to retire flexibly prior to age 60 there may be significant additional costs where the 85 year rule is met at that time and accordingly it would be sensible that any actuarial reduction was made with reference to age 60 or the member's normal retirement date if later. There should however be a discretion for employers to waive any reduction applied should the circumstances in a particular case warrant this.

LPFA also believes that, at least in the short term, any early release of benefits in these circumstances should require the employer's consent to ensure the proper management and monitoring of such retirements.

If the above safeguards are maintained there should not necessarily be a requirement for members to reduce their hours/responsibility to access their pension benefits.

### **Regulation 11**

We note that the original regulation proposed has now been amended to clarify its intent and that there will be an automatic entitlement to unreduced pension benefits in such circumstances.

The issue of whether members who join the scheme after 1<sup>st</sup> October 2006 should receive such benefits unreduced has been raised as a possible issue under Age Discrimination Legislation and should be clarified before the actual regulations are made.

### **Regulation 12**

The proposed ill-health arrangements differ substantially from those included during the initial consultation process and the LPFA is not supportive of the changes made. The two tier system proposed during consultation last year appeared to be sensible and workable ensuring that those members with the most significant health problems would receive a higher level of benefit than previously while also allowing those who could no longer carry out their specific duties immediate access to their benefits.

The proposed three tier arrangement has the potential to significantly increase both the level and cost of such retirements as well as the number of appeals against any decisions made, either to access benefits or to be awarded such benefits under a higher tier.

### **Regulation 13**

LPFA believes that for the sake of clarity it should be confirmed within the regulations that the level of pension cannot be reduced below the value of any Guaranteed Minimum Pension and that requisite benefits are only applicable with regard to any pre-commutation amount.

### **Regulation ,17 & 18 – Death grants**

The LPFA believes there should be a consistency between the payments due under these regulations, and feel that a factor of 5 x pension remains reasonable. There may be scope to improve the factor at some future date once the actual costs of the new scheme are established.

### **Regulations 25 & 26**

The LPFA sees no specific reason for both these regulations in that the existing provisions to augment membership are sufficient to meet the needs of employers wishing to enhance the level of benefit payable. We would propose that regulation 25 is retained and regulation 26 be deleted.

### **Regulations 28, 29 & 30 AVC's**

These regulations will require further clarification and amendment, in particular as currently worded regulation 30 does not appear to allow for the accrued value of AVC's to be taken as a lump sum. LPFA would agree with the recommendation of the LGE that AVC providers to local authorities should be consulted to ensure the regulations meet current practice and comply with the Finance Act 2004.

### **Arrangements for transferring to the New Scheme**

We note that it is intended that all active members of the scheme as at 31<sup>st</sup> March 2008 will retain the value of rights accrued under the old 80<sup>th</sup>s scheme and will accrue rights for future service at 60<sup>th</sup>s under the 2008 scheme. On leaving, a split calculation based on final pay will be made and the pension payable constitute a single Benefit Crystallisation Event for the purposes of the Finance Act 2004. The LPFA is supportive of this approach, in particular given the potential administrative burden if it were necessary to actually effect a transfer of service for existing scheme members.

It should also be noted that those members currently entitled to 'protections' will continue to benefit from these for future service and also benefit from an improved accrual rate from 2008.

In summary LPFA is aware of the need for reform to the Scheme and is fully committed to achieving a smooth transition to such by 31<sup>st</sup> March next year. There are however a number of concerns, particularly around administrative aspects of the new scheme from the perspective of employers (including payroll and HR sections) and administering authorities and that this should be fully taken into account when the regulations are made.

Yours sincerely

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**Assistant Director Member Services**