

## LGPS Regulations Update

A slight change in presentation from this month as from now on I will write a separate article detailing developments in respect of the new-look scheme from April 2008. I had hoped that this article could be kept fairly short between now and March next year as the current scheme is allowed to see out its final year of existence in relative peace.

However, once again, an important document has been received from the Department of Communities and Local Government (CLG) immediately before the distribution of this newsletter.

The **attached letter from CLG** seeks views on the removal of the tapering of "85 year rule" protections, for those members attaining age 60 between April 2016 and March 2020, and replacing it with full protection to March 2020.

As it currently stands the protections in respect of pre April 2016 membership apply to all members reaching age 60 before April 2016. Members reaching



age 60 between April 2016 March 2020 have tapered protection on membership before April 2008, with those with earlier birthdays having the greater protection. This method does create anomalies, but avoids the "cliff-edge" effect where a member aged 60 on 31st March 2016 has full protection whilst a member whose birthday is next day has no protection beyond March 2008.

We have spoken to CLG to clarify some aspects of this paper. What is under a discussion is a removal of that tapering, so that all members reaching age 60 before April 2020 will have "full" protection to March 2020, implying that those reaching age 60 before April 2016 will also have

their protection extended should they choose to work beyond age 60, though one can never be completely certain how this works until the relevant legislation is passed and GAD guidance received.

Responses have been requested no later than 13th June, and the paper asks for responses to five very specific questions. Note that the third question should read "employer contribution rate".

The LPFA will of course issue a response, which will be made available to you. Full consideration will be given to our response, but our initial reaction is that as these proposals would lead to increased costs to employers, or would

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result, through off-setting, in a diminution of benefits elsewhere, LPFA is likely to oppose these changes.

Employing Authorities may certainly issue responses in their own right, and the LPFA would be pleased to receive copies of any such responses.

Apart from this, there are still at least two changes expected to the current scheme, with two sets of draft regulations still awaiting completion. The Local Government Pension Scheme (Amendment) Regulations 2007 will restrict the payment of

AVCs, though it seems reasonable to assume that this provision cannot now be backdated to the 2006/7 financial year.

The Local Government Pension Scheme (Amendment) (No 2) Regulations 2007, covering governance issues were expected to come into effect in May and to require administering authorities to publish a compliance statement and annual report by October. It is now understood that these regulations are still going ahead, but with certain modifications, the most significant being that the

deadlines for issuing a compliance statement and annual report will be extended from 1st October 2007 to 1st April 2008.

More information will be provided to you on both these sets of regulations as and when they are published. In the meantime, Peter Harris writes about the "governance regulations" elsewhere in this newsletter.

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## Governance

The draft Local Government Pension Scheme (Amendment) (No.2) Regulations 2007, [which required formal administering authority response by 23rd March 2007] replicates existing provisions which require administering authorities to publish a governance statement setting out whether it delegates its function, or part of a function, in relation to maintaining a pension fund to a Committee, sub-committee or an officer. LPFA's current statement is available on the corporate website.

In addition, the draft regulation requires authorities to publish details of the extent to which a delegation complies with best practice guidance to be given by the Secretary of State and, where it does not comply, reasons for the

non-compliance in a similar way to which we publish compliance with the Myners investment principles. The best practice guidelines are still to be produced but LPFA are represented on the sub-group tasked with producing them. Authorities are likely to have to publish compliance statements by 31st March 2008 or in the next year's Annual Report.

The purpose of the guidance is to ensure transparency, accountability and stakeholder involvement and is most likely to include reference to representation by trade union members and / or Fund members and employers on investment panels and pension related Committees.

LPFA's response to DCLG was supportive of the intention to produce annual compliance



statements but refers to LPFA's unique constitution among administering authorities and its desire to have representation via observers, public meetings and through consultation with Fund Member and employer groups rather than giving 'voting rights' to lay members.

Further information will be provided when the actual Regulations are available.

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## New Look 2008 Scheme

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, generally referred to as the "Benefits Regulations" were published just in time for inclusion with the April newsletter. Included with them was a summary of the expected transitional arrangements, even though these have not yet been produced in draft form. Although we are still also awaiting the final version of the "Administration Regulations", I think we can now say for the first time that we have a reasonably accurate vision of how the new scheme will look.

With two exceptions, the "Benefits Regulations" generally conform with the summary I provided following the publication of the draft regulations. I will discuss some of the implications of the regulations in more detail in the months ahead, but for now I will focus on the two exceptions.

### **Banded Contribution Rates**

We had been expecting a two tier employer contribution rate. In fact the regulations included "banded" rather than "tiered" contributions. Those of you who found time to read the regulations or covering letter that accompanied the April newsletter would have read of the seven separate pay

bands determined each April based on the member's pay over the previous twelve months.

After I had written you a detailed explanation of the new process, I received a letter from CLG announcing their intention to amend the relevant regulation. The accompanying letter from Brian Town explains their intentions. At first sight this appears to be mainly basing the contribution rate on the pay rate on 1st April, rather than on the previous years pay, but we do not yet have full details of the change, so I will return to these issues when we have more information.

I have been asked what inspired this sudden change of course between the draft and the actual regulations, and suspect the answer to be the Local Government Pensions Committee response to the consultation process, which was referred to in Issue No 8 of Pensions Update. Those interested may wish to read page 6 of that document which sets out the reasoning behind the "banded" approach.

### **Ill health Provisions**

The three tier ill health structure previously proposed has been replaced by a two tier structure, but with the proposal that employers be empowered to pay a third level of benefits from their own revenue

budgets.

The new provisions can be summarised as follows.

**Higher tier** – no reasonable likelihood of further gainful employment at any time.

Membership enhanced to 100% of potential membership to age 65

**Lower tier** – unable to obtain gainful employment within a reasonable period, but likely to be able to obtain gainful employment before reaching the normal retirement age of 65.

Membership enhanced by 25% of potential membership to age 65

**Discretion** – reduced likelihood of obtaining gainful employment.

Employing authorities empowered to make additional unfunded payments until such time as the member takes up employment

No regulations yet exist for the third scenario, but draft regulations are expected shortly.

"Gainful employment" is defined as employment for not less than 30 hours in each week for a period of not less than 12 months. I don't believe we have any definitions for the word "reasonable" in either of its

above contexts.

Once again, there are a good many issues arising from these provisions, and I shall also be returning to these issues in future editions.

### **Transitional arrangements**

Annexe C of the covering letter sent with the new regulations suggests that for members active on 31st March 2008, their pre 2008 membership will continue to count on an 80th pension – 3/80th lump sum basis, but will be calculated by reference to final pay at leaving. Rejoining deferred members will have twelve months to elect for their pre 2008 membership to be treated on that same basis, otherwise all membership

will be calculated on a 60th basis.

Added years contracts taken out before April 2008 will be honoured and will be credited as pre 2008 membership, as will any membership awarded by employers under the current regulations.

The 85 year rule protections will continue to apply, regardless of the differing accrual rates.

Members with protected 5% contribution rates will be “phased” into line with other scheme members by 2010/11.

### **Planning for change**

I have so far alerted you to the most significant changes to the scheme from

next April. Between now and then I will focus on the most significant detail and ensure that you are fully aware of the implications to employing authorities.

The LPFA are currently finalising a plan for the implementation of the new Scheme. The plan will include the support we will be offering to employing authorities. I hope to give you more information about this in June. In the meantime, please do not hesitate to let me know your views on the kind of support you believe you will require, or to call me to discuss any of the issues arising from this article.

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## **STOP PRESS**

**Yet more information has been received following completion of this article, this time in the form of a Question and Answer sheet from CLG, which is attached.**

**I will pick up on any issues raised or clarified next month, but I do note immediately that it suggests the pay band for determining contributions will be set with reference to the first payment made after 1st April regardless of any subsequent retrospective pay awards.**

### **End of year returns and fund valuation**

If your end of year return has not been sent into the LPFA, it is now overdue. Please submit this with urgency to ensure that it can be included in the fund valuation.

If you have submitted your return you will shortly receive or you will have received details of member records that do not match and could be joiners or leavers not yet notified to us. We would ask you to process these promptly to ensure accurate data is submitted to the Actuary. Thank you.

Your contribution rate maybe adversely affected where these issues are not dealt with.

## Investment Review



In this article I provide an overview of investment performance for the financial year ended 31<sup>st</sup> March 2007. The current investment strategy was implemented in January 2006 and saw a shift from the bond and equities structure traditionally employed to one more closely aligned to the scheme's liabilities and cash flow requirements.

A more active approach was taken to seeking improved performance whilst risk was managed through the allocation to a broader range of investments. This required the adoption of a longer-term outlook and alignment of the investment and funding strategies.

LPFA's innovative approach to managing the scheme's assets is expected to deliver long-term investment performance stability and cash flows ensuring the timely payment of pensions to our members.

For the first full financial year of operation the investment environment was characterised by strong UK and global equities and property markets with long-term interest rates continuing their recent rise.

This positive economic environment, combined with strong investment manager performance overall, contributed to both the Active and Pensioner Sub-Fund's outperforming their benchmark returns.

	<b>Active Sub-Fund</b>	<b>Pensioner Sub-Fund</b>
Sub-Fund	7.6%	2.3%
Benchmark	4.8%	1.8%
Excess Return	2.8%	0.5%

The investment environment is inherently volatile and is only one half of the equation when it comes to your funding level and contribution rate. How the liabilities are valued being the counter side. Nonetheless, with the investment strategy now firmly in operation LPFA is confidently working towards achieving its long-term investment objective.

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## Year End Bulletin – 2007

This bulletin highlights issues which affect accurate deduction of pension contributions and subsequent payment of them to the LPFA, and correct completion of year-end returns and we would ask that you spend a few minutes reading the guidance provided.

### Contribution Procedures

We would recommend that you review the LPFA's Employer Guide entitled Administrative Procedures for Employing Authorities and the Monthly Remittance Advice form (LG221) against your own procedure notes to ensure that you are following all the necessary requirements relating to payment of pension contributions. We would be pleased to provide the relevant sections of our Guide in Word format so that you can tailor this to your organisation's needs for example to reflect the particular internal review and authorisation procedures you have in place.



### Late Payment of Pension Contributions

The following outlines the timescale under which pension contributions must be paid to LPFA:

In order to comply with legislation, the monthly payment of employee and employer contributions must be made so as to be received by the LPFA no later than the 19th of the month following the month in which the employee's contributions were deducted from their pay. Please ensure that your payments reach our account on or before this date and that the form LG/221/March 05 is forwarded to us in advance.

### Employer Contribution Rates

As a number of employers are due to pay increased contributions with effect from 1st April 2007 in line with the Rates and Adjustment Certificates issued following the 2004 Actuarial Valuation, would you please ensure that your payroll section have been instructed to deduct the correct rates from the above date. Please contact us if you require a further copy of your certificate.

### Remuneration on Which Employees' Contributions Are Payable

Outlined below is the current definition within the Local Government Pension Scheme Regulations 1997 (as amended) relating to pay on which pension contributions may be deducted. We would recommend that you review these to confirm that you are correctly applying the Regulations.

For pension purposes an employee's pay is all the salary, wages, fees and other payments paid to an active member for his own use in respect of his employment. It also includes any other payment or benefit specified in his contract of employment as being a pensionable emolument.

However, pay **CANNOT** include:

- Payments for non-contractual overtime;
- Any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
- Any payment in consideration of loss of holidays;
- Any payment in lieu of notice to terminate his contract of employment;
- Any payment as an inducement not to terminate his employment before the payment is made;
- Payments made in consequence of the School Achievement Award Scheme;
- Any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision, but see the Employer Guide for the position of any employee in service prior to 1st January 1993;
- In the case of an employee or former employee of the Commission for the New Towns, any payment made under any scheme relating to the termination of the employment of employees by the Commission in respect of the completion before a specified date of specified functions.

## Year End Returns

Please read the file Specification previously forwarded carefully and ensure the return is submitted in the correct format. This will prevent annual returns having to be returned and resubmitted at a later date. This will also help reduce the number of queries we need to raise. As this is a valuation year any outstanding returns should be submitted within the next 5 working days.

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