

TO: LOCAL GOVERNMENT PENSION  
SCHEME INTERESTS IN ENGLAND  
AND WALES

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## **LOCAL GOVERNMENT PENSION SCHEME RULE OF 85 PROTECTIONS**

With the agreement of Ministers, I am writing to invite your comments on the terms of a formal proposal to extend the current protections in England and Wales provided in the Local Government Pension Scheme (LGPS) within the existing cost envelope of the Scheme. This would affect older Scheme members following the removal of the rule of 85 with effect from 1 October 2006, providing certain statutory conditions are met. Responses **are requested please by Monday 1 October.**

### **Policy context**

As explained in the Ministerial Written Statement to Parliament on 15 June, this statutory consultation exercise takes place following the recently concluded informal consultation with Scheme interests between 16 May and 13 June. Ministers were grateful for the range of responses provided and wish it to be known that they intend to take further account of those responses as part of this exercise when it concludes.

Those responses build helpfully on the representations made previously on this matter and provide support now for a further assessment of the current levels of protection in the Scheme which apply between 2016 and 2020 and a specific proposal to provide full protection to 2020.

Ministers believe that this formal consultation, for a full twelve weeks, will provide an extended opportunity for Scheme stakeholders to consider the terms of a set of specific propositions outlined below. This has to be done within the clear policy context that the full costs of implementing any benefit changes which would involve an extension of the current level of rule of 85 protections, can only be provided from within the Scheme's **existing** cost-envelope. The department's letter of 4 April explains that this amounts to 19.4% of payroll for future LGPS service only and is formed of a yield of 6.3% of pay from employees, plus 13.1% of payroll from Scheme employers.

## **Existing protections**

Following the final removal of the rule of 85 from the LGPS with effect from 1 October 2006, the present protections, which then came into force, currently provide that: -

- (i) all members of the Scheme on 1 October will continue to accrue membership under rule of 85 terms until 31 March 2008;
- (ii) if a qualifying member is 60 by 31 March 2016 and would have satisfied the rule of 85, no actuarial reduction will apply should he choose to retire at the age at which he satisfies the rule of 85; and
- (iii) if a qualifying member is 60, would have satisfied the rule of 85 between 1 April 2016 and 31 March 2020 and chooses to retire at the age at which he satisfies the rule of 85, an actuarial reduction will apply on a tapered basis, with effect from 1 April 2008.

## **Cost estimates**

The Government Actuary's Department has estimated that the capital cost of removing the current level of tapered protections between 2016 and 2020 is some £0.35 billion - £0.4 billion. GAD further estimates that, in payroll terms, this figure equates to some 0.1% of payroll, or in total about £25 million annually, for 20 years.

Responses to the recent informal consultation exercise have verified that order of magnitude, with some variations associated with the number of Scheme members in the local workforce able to qualify, and their specific age and service characteristics. For example, one LGPS administering authority estimated £730,000 as the cost of change, while two others, with smaller workforces and varying membership demographics, estimated £330,000 and £210,000 respectively.

The basis upon which the Statement was made to the House of Commons regarding the affordability of any uprated level of protection is well established. The Government's intention remains to ensure that no additional costs arising from LGPS reforms or amendments are imposed on taxpayers, or employers. This objective is central to any considerations surrounding amendments to the Scheme's regulatory framework and is reinforced by the Government's intention only to consider amendments from within the established Scheme cost-envelope.

To ensure the continuing solvency of the Scheme, therefore, and to meet the Government's longstanding policy on affordability, the costs of implementing any amendments to improve the level of protections need to be provided from within the Scheme. Adjusting assumptions or forecasts of data change would not be regarded as satisfactory ways to deal with the costs incurred of introducing this benefit improvement. Instead, there needs to be an explicit adjustment, within the Scheme's cost-envelope, to directly meet the cost of the new benefit.

Consultees will wish to note that Ministers have confirmed that, if no statutory and agreed means of providing the necessary resources to extend the proposed level of protection emerge from this consultation exercise, the present level of tapered

protections, set out in the Local Government Pension Scheme (Amendment) (No.2) Regulations 2006, will remain.

### **Specific proposals**

Consultees are invited to consider their response to the elements of a possible future Scheme amendment which would involve

- (i) an amendment to the Schedule to the Local Government Pension Scheme (Amendment) Regulations 2006 (Transitional provisions and savings) as follows: for “2016” in paragraph 2, in both places where it occurs, substitute “2020”; and
- (ii) a deletion of paragraph 6 in the Schedule; and
- (iii) the introduction of further, specific regulatory amendments to ensure that the terms of the Government’s Statement of 15 June regarding affordability and the cost-envelope limit are fully met.

### **Considerations for consultees**

Ministers’ policy remains that any changes to the present level of Scheme protections can only occur on the basis of legality and affordability. The terms of the recent Statement made in Parliament on 15 June confirm that position for this current consultation exercise.

Consultees in their responses are invited to focus on whether there are employment policy or labour market objectives which could be applied in order to objectively and reasonably justify an extension of the current standard of protections. In considering the standard of objective evidence around these issues, consultees are encouraged to comment on and, where possible, provide actual incidences of issues arising from cross-border transfers of staff if no change occurs, and if any retention of staff concerns arise as a consequence in England and/or Wales. Comments are invited also on what would be the future consequences for labour relations if the existing level of protection was retained.

Consultees to express a preference for a specific way of offsetting the costs of extending transitional protection, if they wish to support such an extension. This means considering whether, for example, if increases in employee contributions, or further amendments, to reduce a specific element of the new 2008 benefit structure to provide a saving could be applied to produce the necessary offset. Alternatively, some other Scheme change could be provided, but from within the existing Scheme regulatory framework, to expressly offset the specific additional costs arising to pay for the improved protections, as estimated by the Government Actuary’s Department.

Consultees are invited also to address the equity arguments, raised by some consultees in their responses to the recent informal consultation exercise where it was pointed out that the improvements being considered for what appears to be a minority of Scheme members, could only be achieved if the full Scheme membership either paid higher contributions, or had the terms of the new 2008

benefit package reduced for all members in order to provide affordable and improved levels of protection for a specific group.

Consultees are invited finally to consider how the membership at large is affected (or not) by the creation of a cliff-edge at 2020? For example, what would be the local consequences of taking away the equity-basis of the 2016-2020 taper? Would a full 2020 protection standard be beneficial? In addition, local authority and other employers may be in a position to provide data on the numbers of Scheme members who would benefit from a move to full protection in 2020, and to show how this number sits in proportion to the rest of the local workforce membership.

### **Next steps**

Your responses to this consultation exercise are requested **no later than 1 October 2007** and should be sent to:-

Nicola Rochester  
Zone 2/F7 Ashdown House  
123 Victoria Street  
London SW1E 6DE

or e-mailed 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).

Information about the Government's code of practice on consultations is at Annex A.

**TBJ Crossley**

## **Government Code of Practice on Consultations**

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

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 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, in itself, be regarded as binding on 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.

As there are intended to be no direct financial implications arising from these amendments, or impacts on business, charities or the voluntary sector, a Regulatory Impact Assessment has not yet been prepared. In due course, once the outcome of the consultation exercise has been assessed, and Assessment may need to be prepared.

## **ADDRESSEES**

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County and County Borough Councils in Wales  
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Wirral Metropolitan Borough Council  
City of Bradford Metropolitan District Council  
South Tyneside Metropolitan Borough Council  
Wolverhampton City Council  
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### **The Secretaries of:**

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Other Government Departments with public service pension interests:

GAD

DoE (NI)

SPPA