

CYNGOR SIR POWYS COUNTY COUNCIL.

**Pensions and Investment Committee
23rd February 2012**

REPORT BY: Head of Finance

SUBJECT: Proposed LGPS Amendments

REPORT FOR: Decision

1 Introduction

- 1.1 On 5th December 2011 CLG issued for consultation, the draft Local Government Pension Scheme (Miscellaneous) Regulations 2012. Comments are required to be submitted by 27th February 2012.
- 1.2 It is proposed that amendments be made to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (“the Benefits Regulations”), the Local Government Pension Scheme (Administration) Regulations 2008 (“the Admin Regulations”), the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (“the Transitional Regulations”) and, the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (“the Compensation Regulations”).
- 1.3 The proposed amendments are necessary to make some corrections and cross-references, to clarify detailed aspects of the Scheme’s extant provisions, to provide new definitions, to take into account changes to the taxation rules and to introduce some new provisions. The more significant proposals are described below.

2. Amendment Regulations 4 - 15

- 2.1 These proposals will amend the Benefits Regulations to:
- a) Bring the scheme into line with the obligation under the revisions to the tax regime introduced by the Finance Act 2011 to use earnings relating to the pension input period (for LGPS this is 1st April – 31st March) in calculating the Annual Tax Allowance (which covers the tax year ie 6th April to 5th April).
- b) Make renewed provision for the purchase of additional survivor benefits (ASB) by members. Under the LGPS (Miscellaneous) Regulations 2009, certain members were given the right to elect to pay additional contributions in respect of any period of membership

occurring prior to 6th April 1988, in order to be credited with additional survivor benefits in respect of a surviving nominated cohabiting partner. Such elections had to be made by 31 March 2011. As that deadline has now passed, the current amendment provides for the ongoing purchase of ASB, with the new stipulation that elections to purchase must be made within 12 months of the nomination of a co-habiting partner.

c) Make it clear that members taking flexible retirement are not obliged to take any of their post 1st April 2008 accrual. However, they must take all of their benefits accrued before this date.

d) Deal with a particular problem arising when an employing authority has ceased to be a Scheme employer. A deferred member or pensioner member with deferred benefits who wishes to draw their pension between the ages of 55 and 60 requires the consent of their employer. The amendment makes it clear that where this is not possible because the former Scheme employer no longer exists, the question of consent would be at the discretion of the appropriate administering authority.

e) Provide for certain members to have the right to have their accrued rights commuted to a lump sum, which also assists administering authorities by reducing ongoing administration of small amounts of benefit payments. Benefits Regulation 39 sets down two alternative provisions which need to be satisfied for trivial commutation to take place and the amendment adds a third which is facilitated by Section 164(1)(f) of the Finance Act 2004.

3. **Amendment Regulations 16 - 19**

- 3.1 These proposals will amend the Transitional Regulations to remove two old provisions which either are no longer required or their intention can more accurately be covered by guidance issued by the Secretary of State having sought advice from the Government Actuary's Department.

4. **Amendment Regulations 20 - 44**

- 4.1 These proposals will amend the Administration Regulations to:

a) Prevent administering authorities entering into admission agreements covering more than one contract with a contractor which is, or is about to be, a transferee admission body.

b) Make it a mandatory requirement to have an indemnity or bond for all transferee admission bodies and now community admission bodies.

c) Deal with eligibility to be a member of the Scheme. Regulation 12 states that in certain specified situations a person may be a member of the LGPS despite being eligible to be a member of the National Health

Service Pension Scheme for England and Wales. One of those situations is if their entitlement to the NHS Scheme is by reason of employment arising through a prescribed arrangement under section 75 of the NHS Act 2006, a provision which covers only England. The amendment adds section 33 of the NHS (Wales) Act 2006 so that an employee in a health partnership arrangement in the principality can be eligible for the LGPS.

d) Allow movements of employers to occur between funds without threatening the stability of pension funds or the viability of employers where premature crystallisation of pension deficits requires an immediate cash payment. The regulation provides for an application to the Secretary of State to make a Direction as to the appropriate fund where an employer moves to a new location in a different geographical area; wishes to consolidate its participation in a number of different pension funds; or merges with another body in a different geographical area. The Secretary of State would need to be assured that the parties agree to the proposed Direction and a Direction may prescribe certain requirements to ensure funds are protected.

e) Make it explicit that an administering authority can call for a payment following a cessation valuation in respect of a scheme employer when it ceases to be an employer in the fund.

f) Permit administering authorities, where there is evidence that an employer is to leave the LGPS at some point soon, the circumstances relating to a scheduled body have substantially altered, or there are other circumstances which are likely to result in the fund's valuation, to hold more frequent actuarial reviews of employer contribution rates and allows them to obtain a revised rates and adjustment certificate, including for any lower employer contributions to manage the gradual reduction of any pension deficit or surplus.

g) Introduce changes to the Scheme to ensure pension administering authorities comply with the new tax regime in terms of issuing annual benefit statements which will show whether or not members have exceeded the Annual Tax Allowance, and subsequent to that allows for funds to pay the tax charge following a request from a member. Where the tax charge is met by the fund any reduction in accrued rights will be carried out in line with guidance to be issued by the Secretary of State.

h) To ensure that the Scheme enables compliance with the requirements of the Employers' Duties (Implementation) Regulations 2010 in respect of auto-enrolment.

5. **Amendments to ill health provisions**

- 5.1 These amendments to the Benefits Regulations clarify a number of issues within the arrangements for pensions payable on permanent ill health, as follows:

a) To provide that in the case of a member in part time employment as a result of a condition that subsequently leads to the death of the member, no account is taken of any reduction in the member's pay if the condition led to or contributed to the member's death.

b) To provide that a pensioner member with deferred benefits ie "a ceased Tier 3 member" can apply for normal retirement benefits for an unrelated medical condition at a future date.

6. **Conclusions**

- 6.1 Most of the amendments contained in this consultation are corrective, clarifying or required because of other over-riding legislation.
- 6.2 Of the new amendments proposed, those covering admission agreements will require the Council to review its existing agreements. However, such a review is both necessary and desirable and work has already begun to facilitate such a review.

7. **Recommendations**

- 7.1 Committee is asked to support the amendments proposed.
- 7.2 Committee is also asked to authorise that support for these proposed amendments be communicated DCLG as the Council's response to this consultation exercise.

Recommendation:		Reason for Recommendation:	
a) To support the proposed amendments in their entirety. b) To authorise communication of the support for these proposed amendments to DCLG.			
Person(s) To Action Decision:	Pensions Manager		
Date By When Decision To Be Actioned:	27 th February 2012		
Relevant Policy:	N/A		
Within Policy:	N/A	Within Budget:	N/A
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Relevant Portfolio Member(s):	Councillor Tony Thomas		
Relevant Local Member(s):			