

creating a better place



Philip Perry
LGPS Regulations 2013
Department for Communities and Local
Government
Zone 5/G6 Eland House
Bressenden Place
London SW1E 5DU

5 March 2013

Dear Philip

Local Government Pension Scheme (LGPS) – LGPS Regulations 2013

I am writing in response to the above consultation paper on behalf of the Environment Agency. Our Active Fund is valued at £2bn and has 22,000 members.

We welcomed the agreement reached by the Local Government Association (LGA) and trade unions in May 2012 on the new LGPS as one that protects the lower paid from having to pay more into their pension whilst ensuring that the LGPS is sustainable and affordable in the long term. We need to ensure that these proposals will be a lasting settlement.

This submission is a response to the Department for Communities and Local Government consultation on the first set of draft regulations that sets out the detailed legislation covering the membership, contributions and benefits of the new LGPS 2014 scheme. We believe that the draft regulations covering membership, contributions and benefits reflect the agreement reached between LGA and local government trade unions in May 2012 which we support.

We are members of the LGPS Technical Group and support the comments they have made in their submission. We note there is technical consensus that the draft Regulations need amendment to provide clarity and to reduce unnecessary complexity and confusion and increased administrative costs. For example, in terms of the incomplete list of draft regulations in Schedule 1 we would urge the Department to utilise existing LGPS definitions wherever possible to minimise complexity.

We have attached some specific comments on the draft Regulations in Annex 1 to this letter which we hope that you will be able to take on board, and specifically our comments in respect of ex-HMIP/DoE staff who transferred to the EA in 1996.

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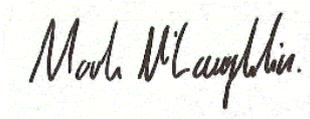
We look forward to seeing the other draft LGPS regulations on governance, cost control and scheme administration and transitional protections as soon as possible.

We have only 12 months to get everything in place for the new scheme and we are concerned that any further delays will make it extremely difficult for us to implement the new scheme on 1 April 2014.

Our response to the specific questions in the consultation is attached at Annex 1.

If you have any questions regarding this response please contact Howard Pearce, Head of Environmental Finance and Pension Fund Management.

Yours sincerely,

A handwritten signature in black ink that reads "Mark McLaughlin". The signature is written in a cursive style and is positioned above the printed name and title.

Mark McLaughlin
Director of Finance

Response to consultation

Regulation 4 – Restriction on eligibility for active membership.

We support the comments made by LGA about Regulation 4b, which states a person aged 75 or over is excluded from active membership of the LGPS. At present we do not employ anybody aged 75 or over. However, this will change as the State pension age (SPA) increases and from a diversity and inclusion perspective the Environment Agency would support removal of this section of the regulations. If accepted this impacts on other regulations, e.g. regulation 3, 5, 6 etc, which also refer to age 75 so any change would need to be updated throughout.

Regulation 10 – Temporary reduction in contribution

As highlighted in our response to the TU/LGA consultation last year, we welcome this option as we believe it will encourage some of our employees, who are not members of the LGPS to join as it will be more affordable.

We support the comments made by LGE. We believe the regulations as written will create an unnecessary burden on both the employer and the administering authority. For example, the requirement to join the scheme as a full member before being able to opt for the 50:50 option introduces a potential obstacle, which may result in non members deciding not to join.

In addition Regulation 10(7) introduces the requirement for the employer to send the member information setting out the impact of moving to the 50:50 option on the pension benefits they will accrue. This is a recurring requirement linked to the automatic enrolment regime. We would appreciate a review of this requirement as it appears cumbersome. In addition it places a burden on the employer and the admin authority, as they will have to provide the anticipated pension benefit details for members, who move to the 50:50 option.

Regulation 14 – Contribution during a trade dispute

We support the recommendation by LGE to review the contribution rate payable, where a member wants to make additional contributions so membership is accrued during a trade dispute period. The current rate is 16% and we agree it should be uplifted to 19.5% to reflect the scheme underlying cost.

Regulation 20 – Meaning of pensionable pay

Regulation 4 (2) (f) of the LGPS Regulations 2007 excludes the pay uplift, which is paid to protected former civil service employees, who were compulsorily transferred from the Department of the Environment (DoE) and HM Inspectorate of Pollution (HMIP). We have cut and pasted the relevant regulation below.

(f) the amount of any supplement paid—

- (i) by the Environment Agency; or
- (ii) to an employee whose employment is transferred on 1st April 2010, under a staff transfer scheme, from the Learning and Skills Council for England to a local authority or to London Councils Limited,

in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme;

We request that this exclusion is reviewed and re-inserted in the list as a payment that does not count towards pensionable pay.

Regulation 30 – Retirement benefits

The normal retirement age for the LGPS is currently 65. However, Regulation 15 (Civil servants transferred to the Environment Agency) of the LGPS (Transitional Provisions) Regulations 2008 confirms in sub paragraphs (4) (a) and (b) the regulations in which references to normal retirement age shall be construed as age 60.

In an e-mail to Robert Holloway and Phillip Perry on 23 November 2012, the EAPF raised the following question relating to the normal retirement age and the protection proposals. Set out below are the questions we asked and are awaiting clarification.

The cases are linked to:

- Rule of 85/Critical retirement age
- Pension protections dating back to a compulsory transfer in 1996, where civil servants were TUPE transferred from DoE/HMIP to Environment Agency, left the Principal Civil Service Pension Scheme and became members of the LGPS. Their retirement age for the purpose of determining whether there would be a reduction to their pension benefits is age 60. This is set out in Regulation 36 of the The Local Government Pension Scheme (Miscellaneous) Regulations 2010 (SI 2090).

We understand that the age 60 retirement protection will not be carried forward for benefits built up in the 2014 regulations. Consequently, a protected member could voluntarily retire at age 60 after 1 April 2014 and would receive unreduced benefits for membership up to 31 March 2014. However, any pension benefits built up from 1 April 2014 if taken before normal retirement age (65) would be actuarially reduced. Please can you confirm this is correct?

We also want to clarify whether the 10 year underpin for members aged 55 at 31 March 2012 is linked to protected retirement ages as outlined above or will be based on the LGPS normal retirement age of 65?

Example 1

A member is covered by the protection outlined in SI 2090 and is aged 51 at 31 March 2012. Does the 10 year underpin protection apply as the member is within 10 years of their protected retirement age of 60?

Example 2

A member is aged 54 at 31 March 2012. Taking account of their service and age they satisfy the 85 year rule at 62. Does the 10 year protection apply as the member is within their protected retirement age of 62?

If the 10 year underpin takes account of protected earlier retirement ages please confirm whether this will apply to all benefits or just pre 2014 benefits built up as at 31 March 2014.

Pensionable pay and part time workers

The LGPS 1997 regulations require pensionable pay for part time workers to be increased to the 'full-time equivalent pay' and pension scheme membership is pro-rated to reflect the part time working arrangement.

For membership built up to 31 March 2014 we assume 'full-time equivalent pay' will be used for those working part-time (as is the current practice) when using future final pay to calculate the value of service accrued prior to April 2014. Please can you confirm this is correct?

We are clear that going forwards under the new regulations we will use pensionable pay earned, which would reflect the part time working pay, where relevant.

Survivor partners of active members

We support a review of the cohabiting partner requirements. At present to qualify for pension benefits, under the current Regulations the active member has to nominate their partner using a process set down in Benefit Regulation 25. In the light of a ruling last year in the High Court, we support the introduction of less onerous provisions, which require the cohabiting partner to provide evidence to support any claim for pension benefits, at the time of death of a member.