

# Wolverhampton City Council

## OPEN INFORMATION ITEM

Committee / Panel

**PENSIONS**

Date **27/02/2013**

Originating Service Group(s)

**PENSION SERVICES**

Contact Officer(s)/

**GEIK DREVER**

Telephone Number(s)

**2020**

Title/Subject Matter

**LOCAL GOVERNMENT PENSION SCHEME 2014:  
DRAFT REGULATIONS ON MEMBERSHIP, CONTRIBUTIONS AND  
BENEFITS**

---

### **RECOMMENDATION**

That the contents of the report be noted.

## 1 **PURPOSE OF THE REPORT**

1.1 This report provides a brief summary on the draft regulations for the new Local Government Pension Scheme (LGPS) which will be effective from 1 April 2014.

## 2 **Background**

2.1 Following the informal consultation in the summer of 2012 on the proposals for the design of the new Scheme, the Department of Communities and Local Government (DCLG) issued the statutory consultation document on the 21 Dec 2012 on the draft Local Government Pension Scheme Regulations which will be implemented on 1 April 2014. The consultation period ended on 8 February 2013 and the Fund reviewed the draft regulations and provided a draft response.

2.2 A copy of the Fund's response was sent to employers and is attached for information. A briefing note was also issued to Pensions Committee and JCP Members on 24 January 2013.

## 3 **MAIN POINTS COVERED IN THE DRAFT REGULATIONS**

3.1 In summary the draft regulations are in line with the proposals provided in the summer of 2012.

3.2 The main provisions are as follows:

- (i.) A pension scheme design based on Career Average Revalued Earnings with individual "pension accounts" being set up for different types of member including, active, deferred and pensioner as well as separate accounts for survivor benefits. There will also be separate accounts for each employment.
- (ii.) The accrual rate for members is 1/49<sup>th</sup>, for the spouses/partners benefit it remains at 1/160<sup>th</sup>.
- (iii.) The 3 x death in service benefit remains.
- (iv.) Pensionable Pay will now include non contractual overtime payments. There is an Assumed Pensionable Pay which in certain circumstances protects members when their pay is reduced such as a 'no pay' sick period.
- (v.) A new contribution table with increased bands. The average employee contribution rate remains at 6.5%. A member's contribution rate will depend on their actual pensionable pay rather than currently where it is based on the full time equivalent.
- (vi.) The introduction of a 50:50 option which allows a member to pay contributions at half the rate. The accrual rate is 1/98<sup>th</sup>.
- (vii.) The normal pension age will equal the state pension age. If the state pension age rises then so will the normal pension age which will include active and deferred members with post 2014 benefits.
- (viii.) Ill health retirement based on the current principles of the 3 tiers.
- (ix.) A vesting period of 2 years.

## 4 **FUTURE CONSULTATIONS**

4.1 Further consultation papers and draft regulations are expected in the early part of this year concerning:

- (i.) Cost Control – a mechanism to ensure the new scheme remains affordable and sustainable.
- (ii.) Governance – there is a commitment to establishing a National Advisory Board which in part will allow employers, trade unions and others with scheme interests to effectively manage the ongoing costs of the scheme design via a cost control mechanism. Discussions are progressing on establishing the Shadow Board by April 2013.
- (iii.) Councillor Pensions – following the Ministerial Statement on 19 December 2012 there will be a consultation process on the access to the LGPS for Councillors.
- (iv.) Transitional Provisions – the arrangements required for the protections between the existing and new Scheme, including the underpin for members between the ages of 57 to 59, and the link to the final salary for pre 2014 membership is awaited.

## **5 COMMUNICATION**

- 5.1 The Fund's website will be updated regularly with new information on the progress of the 2014 Scheme as it becomes available and there is a specific link to LGPS 2014 for scheme members (<http://www.wmpfonline.com/Publications/LGPS+2014.htm>).
- 5.2 A publication for all employers briefing note was issued at the end of January 2013 which also provided further details of the 2014 changes.

## **6 FINANCIAL IMPLICATIONS**

- 6.1 The Fund is establishing, from within existing staffing resources and budget, a project team to progress the LGPS 2014 changes to ensure that we meet the proposed implementation date.

## **7 LEGAL IMPLICATIONS**

- 7.1 The report has legal implications as it deals with the pension rights attributable to employees.

## **8.0 ENVIRONMENTAL IMPLICATIONS**

- 8.1 The report contains no environmental implications.

## **9 EQUAL OPPORTUNITIES IMPLICATIONS**

- 9.1 This report has implications for the Council's Equal Opportunities policies since it deals with the pension benefits of employees under the new LGPS 2014 changes.



Geik Drever  
Director of Pensions

West Midlands Pension Fund  
PO Box 3948  
WOLVERHAMPTON WV1 1XP  
Tel: 0300 111 1665  
Fax: 0845 230 1565  
Email: pensionfundenquiries@wolverhampton.gov.uk  
Web: wmpfonline.com

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

Our Reference:

REF:DOP.LTRS.DCLG  
Your Reference:

Contact:

Telephone:

(01902) 552020

22 January 2013

Dear Mr Perry

### The Draft Local Government Pension Regulations 2013

Thank you for your letter dated 21 December 2012 seeking comments on the above draft regulations.

In general the draft regulations are in line with the proposals put forward in the summer and form one part of the set of regulations required for the new 2014 Scheme. We look forward to receiving the draft regulations on cost control and governance of the Scheme as this will be critical in assuring the new Scheme is, and will, remain affordable.

In the comments made by the Fund it has also considered the impact on the employer of regulations 4(1)(b), 10(7) and 21(3).

Our comments and observations on the technical aspect of the regulations are in Appendix A. As confirmed in the consultation document the regulations were issued without some of the new terms being defined, and without the transitional provisions which will deal with the arrangements between the new scheme and the old scheme. Without the full details it is difficult to provide an accurate assessment of the draft regulations as the full implication of some of the regulations may not be completely realised. It will be vital that the complete actual regulations for the new Scheme are available as early as possible in order to ensure all the system calculations, documents and processes are in place for April 2014. If you have any queries please do not hesitate to contact me.

Yours sincerely

Director of Pensions

Enc.  
West Midlands Pension Fund

Visits can be made to the Fund's offices on the  
5th Floor, Mander House, Wolverhampton  
Opening hours: Monday - Thursday 8.30am - 5.00pm  
Friday 8.30am - 4.30pm



## Appendix A

- **Regulation 2(3)** requires the establishment of a pensions board, will this be similar to the administering authority's Pension Committee who have the majority membership because of their responsibility?
- **Regulation 3(2)** the phrase "a person" is repeated.
- **Regulation 4(1)(b)** it is still appropriate to retain an age limit for eligibility for active membership and therefore as there is no tax relief available on contributions paid after age 75 this age seems reasonable. It will also avoid employers having to amend their payroll systems for the people who do continue in work beyond age 75.
- **Regulation 5(5)** should it be a person is not treated as being an active member of the Scheme if they cease to be an active member before being an active member for 3 months?
- **Regulation 6(1)(a)** clarification required for a person who has been an active member of the scheme for less than two years, and a transfer payment has been received from a scheme that does not permit a refund but the membership period that the transfer payment relates to is less than two years and in total the membership is less than two years, will this person be a deferred member ?
- **Regulation 8(1)** do not believe the word "potentially" is required as a person is a credit member of the Scheme if they are entitled to a benefit as a result of a pension debit being created under the Welfare Reform and pension Act 1999.
- **Regulation 10** the regulation does not specify a period that a member can elect to pay reduced contributions for. We would like to see a minimum period that a member can elect to pay reduced contributions for. This is to avoid a member electing for this option on a regular basis throughout the year as their circumstances and finances change. Will the regulations or guidance specify what information the employer has to provide to the member, in order to avoid a member potentially receiving different information from different employers. The provision of information by the employer should not be onerous or costly.
- **Regulations 11 to 15** the regulations do not specify the option to continue payment of contributions that were being made under regulation 23 and 25 of the 2008 Administration Regulations or regulation 55 of the 1997 Regulations is this intentional ?
- **Regulation 16** the regulations do not specify a minimum amount of additional member or survivor pension that can be paid for. Without a minimum amount there is a risk that very small amounts may be paid for. Will the guidance be issued by the Government Actuary?
- **Regulation 17(5) &(7)** the member is only required to specify the percentage of pensionable pay or the amount he wishes to contribute, and not that it is payable from his pay on his usual pay day. This does not appear therefore to restrict the member from paying more than 50% in one pay period or that it is payable through his payroll. Is this the intention?
- **Regulation 18(1)** the reference should be to 3(6) and not 3(5).
- **Regulation 18(4)** appears to imply that a member is only entitled to claim a refund if payment is requested within one year of ceasing active membership, is it intended that the refund is "lost" if not claimed within a year?
- **Regulation 21(3)** This could be costly for an employer if they have to obtain this in every case where a member reduces their hours and therefore has reduced pay because of ill health.

There may be scenarios where the member has a permanent reduction in their hours for the rest of their employment. Or is it only intended to apply to a temporary reduction in hours? In the current regulations an IRMP only has to certify that the member was in part time service wholly or partly as a result of ill health if the member has satisfied the criteria to retire on ill health grounds as a result of that ill health condition.

- **Regulation 22(2)** should a separate account be opened where a member is or was employed in one or more Scheme employments rather than two or more Scheme employments?
- **Regulation 24(4)(b)** makes reference to pensionable service should it read active service?
- **Regulation 26 (3)(a)** provides for a deferred member to be entitled to immediate payment of a retirement pension from age 55, will this also apply to a member who has opted out of scheme membership with a deferred account?
- **Regulation 30(1)** there is no reference to the member having to have two years membership in order to qualify for a retirement benefit, is this intentional?
- **Regulation 35(4)** in order for the whole of the regulation to be consistent the wording gainful employment needs to be prefixed with “any”. It will then be consistent with regulation 38.
- **Regulation 35(5)** says that if the member has a reduced likelihood of being capable of undertaking any gainful employment before normal retirement age, that member is entitled to Tier 1 benefits. This appears to be the criteria of regulation 35(4) to determine whether an ill health benefit is payable and therefore suggests that if this criteria is satisfied as well as 35(3) the member is entitled to Tier 1 benefits. Should it read “If the member has no reasonable prospect of being capable of undertaking any gainful employment before normal pension age, that member is entitled to Tier 1 benefits?” This would be consistent with regulation 20(2) of the 2007 Regulations.
- **Regulation 36(1)(b)** the word “any” to be inserted before undertaking gainful employment.
- **Regulation 41, 44 and 47** provides for a pension to be paid to a surviving spouse, civil partner or nominated cohabiting partner. Prescribed conditions for the qualification of a cohabiting partner’s pension are still required and it is preferable to have a declaration signed by the member and partner rather than the Fund exercising its’ discretion.
- **Regulation 42(2)45(2) and 48(2)** all make reference to pension being paid to a partner but this term has not been included in Schedule 1.
- **Regulation 54** unaware that this provision is used could it be removed
- **Schedule 1** the term employing authority is missing.
- **Schedule 2 Part 1 20** The scheme employer relating to an academy has changed from a proprietor of an Academy in the 2008 Administration regulations to a person who has entered into Academy arrangements and currently an Academy is defined as meaning a school to which Academy arrangements relate, as to which see section 1 of the academies Act 2000.

Pension accounts are created in accordance with regulation 22, however if a member is entitled to a refund which is not claimed immediately on leaving should there be a preserved refund account to hold the amount of the refund ?