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LGPS Regulations 2013
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Dear Philip,

Consultation – Local Government Pension Scheme 2014: Draft regulations on membership, contributions and benefits.

This letter sets out a response from Shropshire Council acting as administering authority to the Shropshire County Pension Fund, to the consultation issued on 21st December 2012. In preparing this response the Council has taken into account information from the Fund actuary, Mercer Ltd. This response is submitted on behalf of the Shropshire County Pension Fund Pension Committee and has been agreed by the scheme Administrator but not the pension Committee (which would be usual) as time has not allowed.

It is noted that this consultation only covers the core elements of the new Local Government Pension Scheme (LGPS), in particular, provisions relating to membership, contributions and benefits. We look forward to receiving the consultation covering the governance, cost control and scheme administration shortly. We note that these regulations are being made under the Superannuation Act 1972 and that further regulatory amendments will be needed to comply with the Public Service Pension Bill when enacted. We also hope that details on transitional protection in respect of all accrued rights being protected and linked to final salary, the protection underpin for those within 10 years of retirement and the rule of 85 protections are known quickly so they can be built into the 2013 Valuation.

General comments:

- Indexation for benefits brought into payment does not seem to be covered in these regulations.

- The Secretary of State is required to obtain all actuarial guidance for the operation of the scheme. In the past GAD guidance has not been provided timely so this needs to be improved if this is a policy intention or a provision for Funds to get supplemental guidance from their own actuary needs to be added.

- In the drafting there needs to be consistency and clarification. In the common terms the use of “authority” is referred to a lot, but there are two types of authority: Administering and employing. The Local Government Employers association has produced an excellent commentary on the changes they recommend which we support. This has been undertaken with consultation with all Funds and in particular with the technical working group which has representatives from all regional Pension Officer Groups. This level of detail has not been able to be gone into by this authority, due to the short turnaround.

Comments on draft regulations:

- Regulation 3 – Membership – There is confusion here around how the LGPS interacts with automatic enrolment. Especially around transitional delay, as the draft seems to stop the delay on 1 April 2014. Also at the re-enrolment date the draft states all opt-outs need to be put back in the scheme not just the eligible workers as covered by automatic – enrolment. Clarification is required as to whether this is a policy decision to increase membership of the LGPS. As scheme administrators we support this direction but employers may not, as this increases their administration burden and costs.

- Regulation 4 – Eligibility – We are supportive of removing the Age 75 limit as there is likely to be very few.

- Regulation 5 – Ending active membership – This needs amending so that it can be administered more easily the current drafting will create unnecessary problems for employers. Suggest "at the earliest opportunity after which notice has been given" be used.

- Reg 6 – Deferred and Deferred Pensioner members - no additional comments to LGE highlighted issues.

- Reg 7 - Pensioner members – Ensure that it is acknowledged that you become a pensioner member other than just from being an active member; deferred, pensioner or deferred pensioner members.

- Reg 8 – Pension Credit and Survivors members – remove potentially.

- Reg 9 – Contributions – The impact of changing to actual pay has not been taken into account properly throughout the draft. There will be material changes to individual members other than by changes to terms and conditions for example variable time employees. Also actual pay for variable time employees may not be known at commencement for accurate assessment of correct bandings.

- Regulation 10 – Temporary reduction in contributions (50/50 option) - states that an employing authority of any member shall provide "...information about the effects on that member's likely benefits consequent to that election". This would mean an illustration be provided by the employing authority to each member each time an election is made? It would be more practical to do this at each annual benefit statement. Also reference is made to a "member's automatic enrolment date" - should this refer to an employer's date under the legislation?

- Reg 13 – Contributions during reserve forces leave – this seems to be incomplete.

- Reg 14 – Contributions during trade dispute absence – 16% used from current scheme should this be changed to the 19.5% the cost envelope of the new scheme?

- Reg 15 – Contributions during absences with permission - seems to exclude the contributions required for the first 31 days of absence. When comparing with the current Administration Regulations, this appears to be a drafting error.

- Reg 16 – Additional Regular Contributions -There appears to be an inconsistency with MASARCs as covered in draft reg 43. If a member dies in deferment, the MASARCs purchased contribute to the overall death benefit. If, however, a member purchases MARCs and subsequently dies in service – there appears to be no death benefit. Is this intentional as seems to us to be inconsistent? Clearly this is driven by the terms on offer for this benefit at the time of purchase (at this stage this is unknown), but should a death benefit (perhaps a refund of contributions) be considered here, as the future benefit that has been paid for is not and will not come into payment? It also refers to the need to take into account actuarial advice. Will this be set by fund actuaries, or an actuary appointed by the Secretary of State?

- Reg 22 – 29 – Pension Accounts - In the absence of many definitions used in these draft Regulations, it is impossible to say for certain how these accounts work and it is difficult to be certain what the intention is the position as drafted seems to be at odds with arrangements under a traditional CARE scheme or at the very least, is inconsistent with the revaluation of benefits in an active member's account. Clearly, it is important that a policy decision is taken here to determine what should actually happen in practice. Both our Actuary, Mercer Ltd, and LGE have gone into detail on this area of the draft and these comments are supported.

- Reg 33 – Election for lump Sums instead of Pensions – the draft notes that the lump sum shall not exceed 25% of the Capital Value of "…the member's accrued rights under all local government pension provision." Surely this should reflect the accrued rights under the current Benefit Crystallisation Event only in order to avoid any potential unauthorised payments. The Regulation refers to actuarial guidance issued by the Secretary of State - should this not refer to HMRC guidance also?

- Reg 43 – 48 – Death Grants and survivor Benefits - Regulation 43 (3) (b) says that any additional member and survivor pensions (MASARCs) should be included. Clearly this depends on the terms offered at the time of purchase, but is this the intention to effectively include extra death benefits in these arrangements? Similar issues about the indexation applying in between the most recent Scheme end date and the members date of death. There are issues in terms of operation of survivor benefits / accounts similar to that of pension accounts – see above. Consideration will be needed in relation to the 10 year guarantee given the scheme's normal retirement age will be increasing. Under the current drafting, the full 10 year guarantee is a diminishing one for members retiring after age 65. No reference to any additional survivor benefits purchased under a MASARC arrangement.

I hope you find the above comments useful.

Yours sincerely

Debbie Sharp
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