

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 60S – July 2009

Please contact Dave Friend with any comments you might have on the contents of this Bulletin or to suggest other items that you would wish to see included in future Bulletins.

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Review of default retirement age brought forward to 2010

The Government, in a wide-ranging consultation document [Building a society for all ages](#), has announced a series of proposals to help encourage a major cultural shift and help Britain prepare for demographic change which is seeing people live longer lives. A key feature of the document is the statement that the government intends to bring forward its review of the age 65 default retirement age (DRA) to 2010.

On the pensions front, there is no longer anything in the Local Government Pension Scheme rules that precludes a person remaining in the Scheme beyond age 65, although benefits have to be drawn by age 75. A move away from an age 65 default retirement age would, however, mean that many of the various exemptions for Pension Schemes contained in the Employment Equality (Age) Regulations would need to be amended or deleted and this could have an impact on some employers' policies on compensation. So, it is not just a simple case of removing the age 65 default retirement age; many of the interconnected issues in the Employment Equality (Age) Regulations will also need to be considered.

Background

The default retirement age of 65, introduced by the Employment Equality (Age) Regulations 2006, was originally scheduled for review in 2011 but has been brought forward to reflect the change in economic landscape since the DRA was introduced.

Authorities will know that the High Court began hearing the Age Concern legal challenge to the 65 default retirement age on 16 July 2009. The National Council on Ageing (operating under the names Heyday and Age Concern) believes that the default DRA in the Regulations, which allows employers to retire individuals at 65 or over, makes the Regulations incompatible with the EC Equal Treatment Framework Directive. The ECJ disagreed, and held that the relevant provisions of the Regulations are not inherently incompatible with the Framework Directive and can be justified 'by legitimate social policy objectives, such as those related to employment policy, the labour market or vocational training', provided that it is an 'appropriate and necessary' means of achieving such an objective. The High Court is now considering whether a legitimate social need to justify the DRA does exist within the UK.

Retirement in local government

Key findings from a recent survey conducted by LGE (March 2009) of retirement policies and practices of local authorities in England and Wales showed that:

- 93% of authorities surveyed have maintained a Normal Retirement Age (NRA);
- The most popular reasons for authorities to have an NRA is to enable employees to plan a controlled exit from working life and to assist the organisation in workforce planning and career development;
- The evidence suggests that having an NRA and a point of reviewing whether to continue the employment suits authorities and the planned retirement process (contained in the statutory right to request to work beyond retirement age) is not difficult to comply with, with the majority of authorities having a policy of generally agreeing to requests to work beyond their NRA;
- Despite reporting many positive aspects of operating an NRA, authorities who participated in the survey foresee many positive effects of increasing or abolishing the default retirement age of 65, and these positive effects have already been experienced by the authorities who already operate without an NRA, who have reported no negative effects from this policy;
- The evidence suggests that, with some adjustments and training for managers, authorities could respond positively to any change to the default retirement age by central government;

The Consultation

The Government has now started the process of consulting with key stakeholders in order to inform the review. In addition, the [Age Positive](#) initiative, a Government scheme that works with employers to promote the retention and recruitment of older workers, will be extended to encourage more employers to give employees more choice over their retirement. The Government's consultation closes on 12 October 2009.

LGE will be responding to the government's consultation on behalf of local government. As a sector, Local government is a major employer, employing over 2 million people in the UK. Local authorities' ability to deliver services is directly linked to having the right people with the right skills to deliver future services. A big challenge for the local government sector is that a third of the workforce will be eligible to retire in the next 10 years and so the government's policies on age and retirement will be important for many councils' plans.

All of this means that it is vital for authorities to contribute their views and preferences on retirement to LGE. Your authority can do this by answering this simple question:

Would your council prefer the Government to:

- 1. Retain current default retirement age of 65, together with the statutory right to request to work beyond retirement age; or**
- 2. Increase the default retirement age (e.g. from age 65 to age 67) and maintain the statutory right to request to work beyond retirement age; or**
- 3. Abolish the default retirement age?**

How to respond

Authorities can submit their response by visiting the [default retirement age survey](#) on the LGE website and completing the three questions on the simple survey form on that page by **Friday 12 August 2009**.

LGE will use the information provided by local authorities to contribute into an overall response to the government's consultation being co-ordinated by the Local Government Association and to also represent the sector's issues relating to retirement.

If you have any questions about the consultation or about LGE's response to the consultation please contact luann.donald@lge.gov.uk or joan.seaton@lge.gov.uk.

Consultations

CLG consultation on "Delivering Affordability, Viability and Fairness"

On 25 June 2009, CLG issued an informal consultation letter setting out initial suggestions for stakeholders to consider as a feasible and balanced response to the impact of the current stock market on LGPS pension fund liabilities which are likely to be identified in the forthcoming 2010 valuation exercise.

The consultation considers a possible new approach to dealing with fund solvency, via funds preparing financing plans covering short, medium and long-term pension liabilities and / or administering authorities being allowed to set local funding targets. It also considers the possibility of amending the current employee contribution rates for members who earn in excess of, say, of £75,000 per annum, together with a widening of the salary band for the lower 5.5% contribution rate.

The LGPC will be making a response to the informal consultation prior to the consultation deadline of 30 September 2009.

The consultation letter also points out that a parallel, separate consultation exercise will shortly commence on the broader debate about the longer term future of the Scheme, and how it might best respond to changes in the workplace, workforce and economy.

Response to consultation on amendments to the Accounts and Audit Regulations 2003

The Secretariat has [responded](#) to the CLG consultation on amending the Accounts and Audit Regulations 2003 to improve the transparency of reporting of remuneration of senior officers in public bodies. The response includes comments on the need for clarity on how and when an individual's pension benefits are to be valued; who is to be responsible for providing the valuation; whether it is necessary to project a value to Normal Retirement Age; whether and how the value of injury benefits and various forms of compensation should be calculated; and whether, as well as local government staff, those to be covered by the reporting requirements are also to include senior teaching staff, and senior uniformed and non-uniformed staff of Police and Fire Authorities.

Request to revert back to a 2 year vesting period

The LGPC has sought an amendment to the LGPS Regulations in England and Wales to revert back to a 2 year vesting period. A [copy of the letter](#) will shortly be available on the Latest News of the LGE website.

Finance Act 2009

As reported in [Bulletin 57](#), from 22 April 2009 the new special annual allowance charge will apply if an individual whose "relevant income" is £150,000 or higher changes their normal ongoing regular pension savings and their total pension savings ("special annual allowance") exceed £20,000. Section 72 and schedule 35 of the Finance Act 2009 modify this slightly where the mean for those whose infrequent money purchase contribution amounts for the tax years 2006-07, 2007-08 and 2008-09 ("the relevant mean") exceeds £20,000. Infrequent money purchase contributions are money purchase contributions paid less frequently than quarterly. In these cases, where the "relevant mean" is greater than £20,000 but less than £30,000, the "special annual allowance" will be the "relevant mean" but where the "relevant mean" is £30,000 or more, the "special annual allowance" will be £30,000.

Other items

In addition to more detail on all the items covered in this summary version, [the full version](#) of Bulletin 60 contains information on the following topics:

- LGPS – Frozen refunds;
- LGPS – inward transfers;
- LGPS – Delayed inward transfer decision and cost of obtaining additional quote;
- LGPS – Interfunds and the date to which is calculated;
- LGPS 2008 – Refund of contributions where there is concurrent employment;
- LGPS 2008 – Calculation of Interfund transfers;
- LPGA 2008 – Calculation of a CETV for a Pension Credit member in England and Wales;
- LPGA 2008 – Calculation of a CETV for a Pension Credit member in Scotland;
- LGPC subscriptions;
- QROPS and the Island of Guernsey;
- Update on VAT on investment management services test case;
- GAD Newsletter – Life Expectancy; and
- Circular 230

Useful Links

[The LGE Pensions page](#)

[The LGPS members' website](#)

[LGPS Discretions](#) lists all the potential discretions available within the LGPS in England and Wales, and Scotland.

[Qualifying Recognised Overseas Pension Schemes](#) approved by HMRC and who agreed to have their details published.

[Tax Guide \(Version 11\)](#)

[The Timeline Regulations](#)

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