

Local Government Pensions Committee
Secretary, Terry Edwards

LGPC Bulletin 61S – August 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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LGPS 2008 - National Model Fund

The LGPC/LGE has written to CLG with its observations on the methodology and assumptions being proposed for the National Model Fund (the notional Fund which is to be created for the purposes of the costs sharing exercise). The key points of the letter are:

- transparency is required, with a need for GAD to fully explain the methodology and assumptions being proposed so that members of the Policy Review Group can assess their reasonableness;
- without transparency it is difficult to endorse, in any way, the proposed assumptions;
- a suggested discount rate of 3.5% appears to be too high; and
- there is a lack of consistency in the mechanism used to calculate the cost envelope for the LGPS 2008 scheme and the proposed mechanism for the Dummy Model Fund and the National Model Fund.

Email info@lge.gov.uk

www.lge.gov.uk

Managing Director Jan Parkinson

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Registered office: Local Government House, Smith Square, London SW1P 3HZ

CLG Consultations

LGPS 2008– Delivering affordability, viability and Fairness

On 25 June 2009, CLG issued an informal consultation letter providing suggestions for:

- a new approach to solvency at and from the 2010 valuation in order to mitigate the potentially short term, adverse impacts of the current economic recession, and
- a change to the employee contribution rates and bandings from April 2010, with a new higher rate of 8.5% being introduced for those earning £75,001+ and 10% for those earning £100,001+¹. Conversely, many members earning less than £22,001 p.a. would benefit from a lower rate. Those earning £30,001 or more but less than £75,001 per year would also have to contribute more: +0.2% or +0.3%, to avoid “cliff edge” increases in contributions within the bandings.

The informal consultation letter also foreshadows a parallel, separate consultation exercise on the broader debate, announced when John Healey spoke at the NAPF Local Authority Conference on 19 May 2009, about the longer term future of the Scheme, and how it might best respond to changes in the workplace, workforce and economy.

The LGPC considered the consultation paper at its meeting on 22 July 2009, following which the Secretariat prepared a draft response. The draft will be considered by the Local Government Association’s HR Panel when it meets on 22 September 2009 and a formal response will be sent to CLG before the consultation deadline of 30 September. The formal response will be available on the LGE Pension website following the meeting of the LGA HR Panel.

LGPS 2008 - Governance

[Statutory guidance](#) on Scheme Governance was issued by CLG on 3 December 2008 and contained nine best practice principles against which administering authorities have to measure their compliance.

In a letter dated 13 May 2009, CLG say that since the publication of the statutory guidance there has been “a clear indication of substantive progress and LGPS administering authorities can be congratulated on the steps taken”. However, there are some areas where CLG believe further progress can be made, particularly in the areas of training, facility time and expenses (paragraphs 14 and 15 of the CLG letter) and the quality of engagement with scheme member representatives and other lay members (paragraphs 16 to 22 of the CLG letter). CLG are seeking views, by 30 September 2009, on how best to extend the already high levels of member and other non-elected stakeholders’ participation and active involvement in governance of the scheme.

The LGPC considered the consultation paper at its meeting on 22 July 2009 and a draft response has been prepared. The Secretariat intends to await the publication² by CLG of the full results of their assessment of governance compliance statements before finalising the response. The draft response currently makes the following points:

¹ Although the consultation paper refers in paragraphs 41 and the table in paragraph 42 to £110, 001+, a corrective e-mail was issued by CLG stating that the figure should be £100,001+

² Subject to this being published before the end of September 2009.

- there is no “one size fits all” solution to governance and each administering authority must be free to decide upon how good practice is best achieved for their Fund
- the lack of consistency across Funds to match the standards set out in the statutory guidance is noted
- the LGPC would endorse best practice in areas such as training, facility time and expenses
- the LGPC is highly supportive of the training needs of councillors and other members sitting on pension or investment committees / panels. Indeed, the importance they place on this is signified by the fact that each year the Secretariat organises and provides such training at a number of different venues nationwide.

A copy of the LGPC/LGE’s response will be available on the LGE Pensions website in due course.

Flexible Retirement

The Secretariat understands that, even though the costs / savings from the whole business case should be taken into account when considering flexible retirement (not just the pension cost, if any), many employers are reluctant to offer flexible retirement where there is a pension cost.

As a result of discussions on this matter at recent meetings of the Office Advisory Group and the LGPC, the Secretariat is drafting a letter seeking a change in the regulations such that any actuarial reductions applied to benefits paid on flexible retirement before age 65 should reflect the full pension cost of paying the benefits early. It is considered that such a change would be likely to encourage employers to more widely consider the benefits to them (and to their employees) of flexible. Employers would, of course, still be able to agree to waive, in whole or in part, any actuarial reduction if they so wished.

A copy of the letter will be made available on the LGE Pensions website shortly after it is sent to CLG.

Salary Sacrifice

At the last meeting of the Technical Group on 8 July 2009, Pricewaterhouse Cooper (PWC) gave a presentation on a number of potential salary sacrifice arrangements. Some of these, due to the present wording of the LGPS Regulations, would (if taken up by an employee) appear to have the effect of reducing an employee’s pensionable pay and hence pension benefits. After due consideration, the Technical Group, Officer Advisory Group and Local Government Pensions Committee concluded that there was merit in asking CLG to consider making an amendment to the LGPS Regulations in England and Wales to ensure that employers who wish to offer various forms of salary sacrifice arrangement should not be constrained in doing so by the definition of pensionable pay contained in the LGPS regulations. This, it is argued, would allow employers participating in the LGPS to operate on a level playing field with the private sector and certain other parts of the public sector as far as the ability to offer flexible benefit arrangements are concerned. However, there was no support for permitting the salary sacrifice of pension contributions (i.e. where the employee sacrifices pay equivalent to what their normal pension contributions would have been, and the employer pays that amount into the pension scheme in addition to the normal employer contributions).

There are many factors that would need to be considered by CLG when deciding whether or not to agree to an amendment to the LGPS Regulations and these are set out in the letter which is shortly to be sent to CLG. A copy of the letter will be placed on the LGE Pensions website.

Immediate vesting period of two years

As announced in last month's Bulletin, the LGPC/LGE has written to CLG requesting that the period for immediate vesting in England and Wales increases from 3 months to 2 years (which is the vesting period that still applies to the LGPS in Scotland). A [copy of the letter](#) is available from the LGE Pensions website.

Refund of contributions and concurrent employment

The LGPC/LGE have also written to CLG and SPPA to request that amendments are made to the LGPS (Administration) Regulations 2008 and the LGPS (Administration) (Scotland) Regulations 2008 which will prevent a refund of contributions where the member continues in a concurrent employment. This is to ensure that problems that might otherwise arise under the Finance Act 2004 are avoided. [Copies of the letters](#) are available on the LGE Pensions website.

The Finance Act 2009 – Anti-forestalling measures

The Finance Act gained Royal Assent on 21 July. It included, in clause 72 and Schedule 35, the anti-forestalling measures for the Special Annual Allowance (as covered in [Bulletin 57](#)). These measures form the first part of the restrictions on tax relief for higher earners which were set out in this year's budget statement. HMRC have produced [a document](#) which provides answers to the most frequently asked questions and contains some worked examples.

The Government intends to introduce further legislation to reflect some minor concessions on the effect of the anti-stalling measures.

Other items

In addition to the items covered in this summary version, [the full version](#) of Bulletin 61 contains information on the following additional topics:

- Divorce; and
- Correction to Bulletin 59 regarding interest on Inter-Fund Adjustments in Scotland.

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](#)

LGPC Contact Details

Terry Edwards (Head of Pensions)

Telephone: 01954 202 787 or 0207 187 7346

Email: terry.edwards@lge.gov.uk

Tim Hazlewood (LGPC Training & Development Manager)

Telephone: 01530 242 777

Email: tim.hazlewood@lge.gov.uk

Irene Wass (LGPC Communications Officer)

Telephone: 01246 414 902

Email: irene.wass@lge.gov.uk

Elaine English (LGPC Executive Officer)

Telephone: 0207 187 7344

Email: elaine.english@lge.gov.uk

Dave Friend (LGPC Pensions Adviser)

Telephone: 01457 859 016

Email: david.friend@lge.gov.uk

Alison Hazlewood (Part-time Administration Assistant - Training & Development)

Email: alison.hazlewood@lge.gov.uk

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LGPC
Local Government Employers
Local Government House
Smith Square
London, SW1P 3HZ

or email: david.friend@lge.gov.uk
tel: 01457 859016