



Local Government Policy Division

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Your
reference:
Our DO1-09-571
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Dear Consultee

LOCAL GOVERNMENT PENSION SCHEME – 85 YEAR RULE PROTECTIONS

Following meetings between trade unions and departmental officials, Minister Poots has agreed to seek your views about a possible change to the transitional provisions which protect members who can avail of the 85 year rule. Comments should be sent by 31 January 2010.

The 85 year rule

The LGPS has had a normal retirement age of 65 since the 1920s. Under the 85 year rule members could retire before age 65 and take their pension entitlements without actuarial reduction if the sum of their age and their length of service equalled 85 years or more. Members over 60 could do so as of right; members aged 50 or over but under age 60 required their employer's consent. Members could, therefore, retire early without incurring an actuarial reduction in the value of their pension. The actuarial reduction which is applied in other cases reflects the increased costs to the LGPS due to the early payment, the likely subsequent increase in the duration of the payment of pension to the member and the decrease in the length of time over which investment returns on contributions can be

earned. An equivalent to the 85 year rule does not exist in any other public sector pension scheme.

The 85 year rule was removed because it contravened legislation to prevent age discrimination. Transition provisions were, however, included to give some protection to those members closest to retirement who might otherwise have difficulties in making alternative arrangements.

Current Transitional Provisions

The current transitional provisions in Northern Ireland protect members, who were members at 30 September 2006, who will be 60 and satisfy the 85 year rule and retire by 31 March 2016. There is also a tapered reduction period for members who will be 60 and satisfy the 85 year rule retiring between 1 April 2016 and 31 March 2020. The tapered reduction is calculated using factors supplied by the Government Actuary's Department. These provisions are in line with the policy of maintaining broad parity with the Local Government Pension Scheme in England and Wales.

Proposed Change

The proposed change would introduce transitional provisions similar to those currently in place in Scotland. The Scottish transitional provisions protect members from the removal of the 85 year rule until 31 March 2020 with no period of tapered protection. The change would mean that those who were members at 30 September 2006, who will be 60 and satisfy the 85 year rule and retire by 31 March 2020 would not have their pensions actuarially reduced.

The drawback of this protection is that it would create a situation where those retiring on or before 31 March 2020 will receive full protection but those retiring before age 65 after that date will have their pension actuarially reduced.

Costs

When a pension comes into payment before age 65 an actuarial reduction is usually applied to reflect the increased costs to the fund. If a pension comes into payment early under the 85 year rule no actuarial reduction is applied. The cost of not applying an actuarial reduction

to that pension is met by the fund. This cost is in turn passed on to the employer through the actuary's calculation of the employers' contribution rate.

The cost of the current protections was included by the actuary in the last valuation of the fund in 2007. If the Scottish protections were to be introduced the cost of this change would be included in the calculation of the employers' contribution rate at the next fund valuation in 2010.

The latest costing, based on the 2007 valuation data, showed that the increase of the current transitional protections to the same as those in Scotland would be 0.3% of the total existing members' payroll over their expected period of future service. This is equivalent to £18.2m or 0.15% of pay over 20 years assuming a stable payroll over that period.

The proposed change to the current transitional protections would increase the number of members currently eligible for full protection from 11,693 (28% of active membership) to 17,350 (41% of active membership), an increase of 5,657 (13% of active membership). Total active membership as at 2007 valuation was 42,229.

Equality

The Department, under the terms of Section 75 of the Northern Ireland Act 1998, has carried out a screening analysis for equality impact and has identified a marginal detrimental impact on grounds of age.

This letter and the screening analysis are available at www.doeni.gov.uk/lgd/consultations. Copies of the documents in different formats are available and may be requested using the above contact details.

Responses

Comments should be sent by **31 January 2010** to

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Freedom of Information

The contents of this letter or enclosures should not be treated as an authoritative statement of the law on any particular aspect.

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the attached Annex on the confidentiality of consultations which will give you guidance on the legal position about any information given by you in response to this consultation.

I should be grateful to receive your email address, which will be used solely for future consultations, please entitle the email *e-consultation* followed by your organisation's name.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Cochrane', is positioned above the printed name.

Marie Cochrane

Addressees

All the Members of the Northern Ireland Legislative Assembly

All Northern Ireland political parties, MPs and Members of the House of Lords

The Clerk and Chief Executive of each District Council

The Chief Executive of each Education and Library Board

The Chief Executive, Northern Ireland Housing Executive

Other Employing Authorities contributing to the Local Government Pension Scheme

The Northern Ireland Local Government Association

The Northern Ireland Local Government Officers' Superannuation Committee

The Northern Ireland Committee of the Irish Congress of Trade Unions

The Northern Ireland Public Service Alliance

Various Representative Bodies and Interest Groups

Equality Commission for Northern Ireland

The Freedom of Information Act 2000 – Confidentiality of Consultations

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see web site at: <http://www.informationcommissioner.gov.uk>).