

Response to comments received on draft regulations introducing the New Local Government Pension Scheme

Introduction

1. The Local Government Pension Scheme (LGPS) in Northern Ireland is a statutory public service pension scheme which is available to employees of district councils, Education and Library Boards, schools, colleges, housing associations and other similar bodies. The LGPS is administered by the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC).

2. The Department issued a consultation document on 6 June 2008 seeking comments on three sets of draft regulations by 31 October 2008. The Regulations will introduce a new LGPS in Northern Ireland from 1 April 2009. The three sets of Regulations are;
 - The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland);
 - The Local Government Pension Scheme (Administration) Regulations (Northern Ireland); and

- The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland).
3. This paper provides information on the replies to the consultation, as well as explaining the decisions the Department has taken in response. Revisions to the Regulations took into account the views of respondents, as well as legal and professional advice received.

General

4. A total of 38 responses were received to the consultation, two of which were on behalf of more than one employer. Of these responses:
- 2 were from schools or colleges;
 - 3 were from bodies representative of councils;
 - 18 were from councils;
 - 6 were from unions; and
 - 2 were from individual members.

The following also replied to the consultation:

- the Education and Library Boards;
- the Livestock and Meat Commission;
- the Educational Skills Authority Implementation Team;
- the Integrated Schools' Finance Association;
- Arc 21 ;
- the Northern Ireland Local Government Officers' Superannuation Committee; and

- Training for Women.
5. Whilst there was general support for the Regulations, concerns were raised in relation to the following areas:
- tiered member contributions;
 - ill-health arrangements;
 - the minimum retirement age;
 - casuals;
 - flexible retirement;
 - cost sharing; and
 - the format of the Regulations.

TIERED MEMBER CONTRIBUTIONS

6. At present, members pay a standard contribution rate of 6%. The draft Regulations proposed the introduction of seven tiered contribution rates according to pay range. The proposed pay ranges that would apply from 1 April 2009 are given below. It was also proposed that the 5% rate for people employed as 'manual workers' before 1 February 2003 be phased out over 4 years.

<i>Band</i>	<i>Range</i>	<i>Contribution rates</i>
1	£0-£12,600	5.5%
2	£12,601-£14,700	5.8%
3	£14,701-£18,900	5.9%
4	£18,901-£31,500	6.5%
5	£31,501-£42,000	6.8%
6	£42,001-£78,700	7.2%
7	More than £78,700	7.5%

7. The majority of respondents who commented on this (22 out of a total of 28) said that it would add a significant administrative burden to employers. Most respondents said they would prefer a single contribution rate whilst others put forward the following alternative models:
 - two rates;
 - 3 or 4 tiers;
 - three tiers ranging from 6% for those earning up to £18,000; 6.5% for members earning between £18,001 and £40,000 and 7% for those earning more than £40,000; and
 - the 'tax banding' approach as adopted by Scotland.

8. Concerns were also raised on the following:
 - whether payroll systems could cope, particularly because of concurrent employments; and
 - the removal of the 5% rate for people employed as 'manual workers' before 1 February 2003.

Department's response

9. The introduction of a seven-tier model mirrors the position in England and Wales and the Department has been informed that its implementation was less problematic than anticipated by employers. Also, some employers in Northern Ireland have already started preparatory work with their software providers for the introduction of the seven tiers.

10. Regarding the removal of the 5% rate; this rate only applied to those employed in 'manual occupations' before 1 February

2003 and with the removal of different pay scales for manual and non-manual occupations, there is no pressing need to retain this rate. The 5% rate has already been removed from the LGPS in England & Wales and will be removed from the LGPS in Scotland from 1 April 2009.

11. The Department has therefore decided to maintain parity with England and Wales and introduce the seven-tiered contribution rates as detailed in the consultation document. Also, to address the concerns put forward, the Department has decided to establish a Working Group to review the implementation of the Regulations.

ILL-HEALTH ARRANGEMENTS

12. A total of 27 respondents expressed the following concerns about the proposed ill-health arrangements:
 - a three-tier system had been shown to be unworkable in England and Wales;
 - not convinced a three-tier system was justified and would prefer a two-tier system;
 - considered the ill-health arrangements to be unnecessarily complicated;
 - tiers two and three should be merged;
 - queried if a medical practitioner would be able to decide with any certainty whether a member should be given tier two or tier three ill-health benefits; and

- not acceptable for a benefit to be stopped without a review at year three and without evidence of the member obtaining gainful employment.

Department's response

13. This system has only been fully in place in England and Wales since October 2008. Given the limited time that the three tier system has been in operation in England and Wales and the comments received, the Department has decided to introduce a two-tier ill-health system, with a one-year qualifying period for enhanced benefits. We will also monitor the effect of the new arrangements on ill-health retirements.

MINIMUM RETIREMENT AGE

14. Nineteen respondents were critical of the increase in the minimum retirement age to 55 in 2010. They suggested that the change should, if possible, be deferred until after implementation of the Review of Public Administration. Only one respondent welcomed this change.
15. The change in the minimum retirement age will mean that only members who are 55 or over will be eligible for immediate payment of pension benefits if they are made redundant or dismissed on the grounds of business efficiency. The increase in the minimum retirement age is in line with section 165(1) of the Finance Act 2004 which states that no payment of pension may be made before the day on

which the member reaches normal minimum retirement age, unless the ill-health condition was met immediately before the member became entitled to a pension under the pension scheme. The Finance Act 2004 defines normal minimum pension age as:

- 50, before 6 April 2010, and
- 55, after 6 April 2010.

Department's response

16. Departmental legal advice has confirmed that there is no flexibility to delay the introduction of the increase in the minimum retirement age.

CASUALS

17. Three respondents suggested that the membership eligibility requirement of a contract of employment for at least three months would cause difficulties. One respondent indicated that it would not be able to specify how long a casual employee would be required to cover for absence at the start of the employment. Monitoring and backdating membership, where appropriate, would mean additional administration. Also, that the establishment, or otherwise, of a mutuality of obligation would result in a significant administrative burden.
18. It was highlighted that, if the experience in England & Wales were repeated in Northern Ireland, there could be members who have been contributing for years but who did not have

contracts of at least three months who could be denied membership.

Department's response

19. The Department is aware that the issue of casuals caused some difficulties in England & Wales and that Local Government Employers issued guidance on this matter. The test for membership for an existing casual employee when the new regulations become operational is whether a mutuality of obligation exists with the employer. This is not a matter which the Department is in a position to decide. The criterion of a contract of a minimum of three months is aimed at getting employers to offer membership of the LGPS only to those staff who are expected to remain with the employer for longer than the minimum period for pension benefits.

FLEXIBLE RETIREMENT

20. Thirteen respondents commented that clarification was required on the arrangements for members to have part, or all, of their pension benefits paid while remaining in employment.

Department's response

21. This is one of the areas of the new regulations which will require guidance from the Government Actuary's Department. This has been commissioned and, when available, NILGOSC will provide employers and members with guidance on flexible retirement.

COST SHARING

22. Five respondents commented on cost sharing. The new regulations state that the Department will issue guidance, before 31 March 2010, on the manner in which the costs of the scheme will be met after 2011.

Department's response

23. The Department will issue a separate detailed consultation on the cost sharing guidance.

FORMAT OF REGULATIONS

24. Fifteen respondents said they would prefer the regulations to be in one document rather than three as in the consultation draft.

Department's response

25. The Department will begin work on amalgamating the regulations into one document as soon as possible. This will take some time and it was not possible to do so before the scheduled operational date of 1 April 2009.