WILTSHIRE COUNTY COUNCIL **AGENDA ITEM NO 8.**

WILTSHIRE PENSION FUND COMMITTEE
20 June 2007

UPDATE ON LOCAL GOVERNMENT PENSION SCHEME REGULATIONS

Purpose of the Report

1. The purpose of this report is to update Members on regulations issued by Communities and Local Government (CLG) at the beginning of April 2007 in relation to the administration of the Local Government Pension Scheme (LGPS).

2. It also brings Members a consultation response in relation to a further consultation on the possible extension of protections under the so-called "Rule of 85" provisions.

Background

3. The Committee received a paper at its meeting on 28 February 2007 updating Members on the Government's proposals for the LGPS from 1 April 2008 and asking the Committee to approve a consultation response to the draft Regulations.

4. The final Regulations were issued in early April 2007 and there were a couple of significant amendments compared to the consultation scheme.

Main Considerations for the Committee

Final Regulations

5. As compared with the draft Regulations, the most significant changes introduced by these final Regulations relate to the banding arrangements for the calculation of employee contributions and to the ill-health provisions. A detailed comparison is set out in Appendix A.

6. The new arrangements for calculating employee contributions, based on 7 bands ranging from 5.5% for people earning up to £12,000 to 7.5% for those earning over £75,000, may fulfil a policy objective of the Government, but they will be very costly to introduce and maintain. Interestingly, this approach was not sought by anyone through the consultation, including the Unions.

7. The new ill-health provisions now include two tiers of provision, one for those who are expected to be totally incapable of any "gainful employment" before age 65 and one for those who have a reasonable expectation of employment before age 65. There is also effectively a third category of those who cannot do their existing job, but will be able to fulfil other employment. The costs and monitoring of these will no longer be a matter for LGPS funds, but for the person's employer.

Rule of 85 Protection Consultation

8. Against the background of the 2008 Scheme, CLG has sought the views of LGPS Funds and employing authorities on the protection for older Scheme members arising from the removal of the Rule of 85, which allowed members to retire before 65 with unreduced benefits. This protection will be carried forward into the new Scheme.

9. In its letter dated 16 May 2007, CLG summarised the existing protections as follows:

    a) All Scheme members as at 1 October 2006 will enjoy protection under Rule of 85 terms until April 2008;

    b) Scheme members who could satisfy Rule of 85, who would be 60 before 1 April 2016, would have no reduction applied if they retired at that age;

    c) Scheme members who attain 60 and would have achieved Rule of 85 between 1 April 2016 and 31 March 2020 would have an early retirement reduction applied on a tapered basis.

10. The letter posed a number of questions for authorities to respond to and these are shown in the response at Appendix B, which had to be returned by 13 June 2007 and which was shared with Members for comment (by email) prior to despatch. Ministers will make a decision following the consultation exercise.

11. The key proposed change is to replace point 9 c) above with an extension of 9 b) to 2020. However, that seems unnecessary given that the unions had already agreed to the existing proposal (ie. the whole of 9 above) and the new proposal will cost money.

12. A letter from UNISON has also been sent to local authority employers regarding this consultation, urging authorities to support full protection to 2020. A letter has also been sent to LPGS Fund (under the Freedom of Information Act) seeking information on the numbers involved and the financial implications, to which we have responded.

<u>Environmental Impact of the Proposals</u>

13. There is none.

<u>Risk Assessment</u>

14. There has been considerable disquiet voiced nationally regarding the ability of LGPS Funds, but more particularly their constituent employers, to implement the proposed tiered employee contribution system. Several bodies, including the Society of County Treasurers, have expressed concern about the problems of implementation by 1 April 2008.

15. The pensions administration system used by the Wiltshire Fund, known as AXISe, is used by the majority of local authority pension funds and Heywood, the system providers, are working with all their clients to address the issue from the Fund’s point of view. However, of greater concern is the ability of the 60 or so employers in the Fund to adapt their payroll systems and Officers are currently in communication with them about the issue.

16. Regarding the new ill-health provisions, they pass the decision making and pension cost for those who are permanently incapable of doing their existing job, but who may be able to undertake some other “gainful employment” within a “reasonable” timescale, back to the employer rather than the Pension Fund. There are concerns that many employers may not be in a position to make these judgements and who may continue to look back to the Fund for help.

Financial Implications

17. The additional cost of extending the already agreed protection to full protection to 2020 has been estimated as an additional 0.1% of pensionable pay nationally, which is a relatively small figure in the context of average contribution rates which are currently in the order of 20-22% nationally (similar for Wiltshire).

Proposals

18. The Committee is asked to:

    a) note the changes to the Local Government Pension Scheme included in the final Regulations;

    b) note the inherent risks associated with making changes to payroll and pension administration systems for both the Fund and its employers in time for implementation on 1 April 2008 (as outlined in paragraphs 14 & 15 of this report); and

    c) note the consultation response in Appendix B that was sent to Communities and Local Government on 13 June 2007 regarding extending the Rule of 85 Protections.

SANDRA SCHOFIELD
Chief Financial Officer

Report Author: Nick Nicholson/David Broome

Unpublished documents relied upon in the production of this report: None

90/2007/WPF/DB

APPENDIX A

Local Government Pension Scheme – Draft Consultation v Final Regulations

	Draft Consultation Regulations	**Final Regulations**
Employee Contributions	Up to £12,000 5.5% Above £12,000 7.5%	Band / FTE salary range / Whole pay contribution rate 1 £0 - £12,000 5.5% 2 £12,001- £14,000 5.8% 3 £14,001 - £18,000 5.9% 4 £18,001 - £30,000 6.5% 5 £30,001 - £40,000 6.8% 6 £40,001 - £75,000 7.2% 7 £75001+ 7.5% Pensionable pay is established either on the basis of earnings on 1 April or starting pay on commencement of employment. The banding set at these levels indicates a yield of 6.3% employee contributions.
Ill-Health Retirement	3 Tiers: i) Permanently incapable of any "gainful employment" before 65 - *accrued membership plus enhancement of 50% of potential membership to retirement age.* ii) Permanently incapable of any "gainful employment" on cessation, but likely to be able before 65 - *accrued plus 25% of potential membership to retirement age.* iii) Permanently incapable of undertaking duties of own employment - *accrued membership with no enhancement.* Payable any age	2 Tiers: i) Those who are totally incapacitated will receive their accrued pension entitlements plus a service enhancement of all their prospective membership to their normal retirement rate, ii) Those with a lower level of incapacity will receive 25% of that prospective membership along with their accrual pension entitlements. (*For other cases, if a scheme member leaves employment because they are assessed by an occupational health doctor to be permanently incapable of their current job but medical evidence indicates that alternative gainful employment could be obtained within a reasonable period of leaving, an employer is to be provided with the appropriate powers to pay a benefit at an accrued membership equivalence for the interim. These payments would need to be subject to review as they could not continue if alternative employment is found. Costs arising from these payments would fall to employers' revenue accounts and not, as in the other levels where membership is enhanced, to the appropriate Pension Fund.)*

APPENDIX B

Local Government and Fire-fighters' Pension Schemes
Zone 2/F7
Ashdown House
123 Victoria Street
LONDON
SW1E 6DE

nicknicholson@wiltshire.gov.uk

06 June 2007

Nick Nicholson 01225 756599

Dear Mr. Crossley,

LGPS: Rule of 85 Protection

I refer to CLG's letter of 16 May seeking views on the specific questions about the Rule of 85 protections. This letter is the response of Wiltshire Pension Fund Committee.

Q1. What is your position on the appropriateness of having protections in the Scheme for the 2016 to 2020 period? Do you agree with the tapered protections already provided? Would you prefer to see the tapering removed? If so, would you be content with the "cliff-edge" so produced?

A1. The existing protection, including the tapered protection for those attaining 60 who would satisfy 'rule of 85' between 2016 and 2020, has been arrived at following the Tripartite Committee's extensive discussions and the costs accepted, as outlined in the Minister's Statement of 28 March 2006. This Fund agrees that the tapered protection for 2016-2020 should be retained, to avoid the unfairness of the "cliff-edge" scenario, whereby a Scheme member born on 31 March 1956 would enjoy protection on benefits to 2016, whereas one born on 1 April 1956 would have protection only to 2008. The Fund is opposed, however, to the extension of full protection to 2020.

Q2. If the 2016 to 2020 tapering in the regulations was removed, what would be the effect on your pension fund and on you as a Scheme employer?

A2. Unless some way is found of offsetting the additional costs, there would be an inevitable impact on employers' contribution rates, contravening the undertaking in the Minister's Statement that no additional costs associated with the protection should fall on local taxpayers.

Q3. What would be the net effect of such a change on your employer's contribution rate?

A3. The direct effect on the Wiltshire Fund's average employer contribution rate has not been costed, but we have no reason to believe that they would be significantly different from the national figure being quoted of around 0.1% of payroll.

Q4. What offsetting measures within the Scheme would you identify as a means to meet any additional costs?

A4. If the aim of avoiding additional costs falling to be met by the taxpayer, they would need to met by worsening the benefit package in the new Scheme or a further increase in members' contributions.

Q5. Do you see any employment/workforce advantages, or costs arising from the change from the change from a tapered 2016 protection to full protection at 2020?

A5. Extending full protection to 2020 would still involve a new "cliff-edge" scenario, albeit at a later date, which would involve new Scheme members from 1 October 2006 potentially meeting the additional costs of subsidising the protection for pre-October 2006 members through increased contributions and/or a worse benefit package. This could have an adverse effect on the morale of new members/employees.

Yours sincerely

Sandra Schofield
Chief Financial Officer