

LOCAL GOVERNMENT PENSION SCHEME (LGPS)

What do the proposed changes contained in the Local Government Pension Scheme (Amendment) Regulations 2006 mean for scheme members?

1. 1. Introduction

The Government is committed to securing the continued affordability and viability of the Local Government Pension Scheme and to providing secure, equality-proofed pensions for its existing and future membership.

As pension costs increase, primarily due to our increasing longevity, employers' liabilities increase. This in turn puts pressure on budgets, services and so council tax bills. The affordability and viability of the LGPS, even allowing for the success of its pension funds' investments – which produce £2 billion a year to offset employer costs – is, therefore, critical.

2. 2. What changes were made to the LGPS on 30 March?

The amending regulations remove the age-discriminatory 85 year rule from the Scheme from 1 October 2006, in order to comply with Council Directive 2000/78/EC, which establishes a general framework for equal treatment in employment and occupation.

The rule also discriminates against women who are more likely to start work for their local government employer post age 35, and are therefore less likely to be in a position to take advantage of a rule based on age and service.

Protections will be available for existing scheme members who will be 60 and will satisfy the 85 year rule by 2013.

The amendments introduce significant and well supported flexibilities into the Scheme's legal framework to reflect the simplified tax regime provided by the Finance Act 2004.

The Government has called on the trades unions and local government employers to begin talks, to start now on a nothing ruled in nothing ruled out basis, to address the protection of existing Scheme members, the recycling of savings, and the development of a more equitable Scheme, and stands prepared to introduce further amendments before the Summer Recess to update the Regulations in light of any agreed proposals which emerge from the talks.

Looking ahead, the Government is committed to reforming the Scheme to ensure it meets the challenge of a changing workforce both within and around local government in England and Wales. Discussions with Scheme interests are proceeding to support the preparation of a policy discussion paper on a new-look Scheme for consultation later in the year. Any reforms of the Scheme must recognise, of course, that it already has a normal retirement age of 65, that it is funded and financed in a specific way and, crucially, that any new arrangements must continue to be both affordable and legal.

3. 3. Why are you removing the 85 year rule from the Scheme?

The 85 year rule is directly age discriminatory and therefore must be removed from the Scheme by no later than 1 October 2006 to comply with a European Directive^[1] which establishes a general framework for equal treatment in employment and occupation.

There is some evidence that the rule also indirectly discriminates against women who are more likely to start work for their local government employer post age 35, and are therefore less likely to be in a position to take advantage of a rule based on age and service.

4. 4. Will the removal of the 85 year rule affect my pension?

It is estimated that 20-25% of existing scheme members don't qualify to benefit from the 85 year rule anyway, so for these scheme members, there will be no change in their pension benefits.

^[1] Council Directive 2000/78/EC

For those scheme members who would have been eligible, pension rights accrued up to 1 October 2006, when the 85 year rule is removed, will be protected. The benefits accrued after this date will be actuarially reduced to reflect their coming into payment earlier, if the scheme member still chooses to retire early and is not covered by the transitional protections

The reduction calculation will depend on individual circumstances. Pension managers will be able to advise scheme members on the likely effect on their anticipated pension on retirement.

5. 5. Will I get the benefits I have paid for to date?

Absolutely. The Government has explained that **all** pension rights accrued from past service will be fully protected. The value of your accrued pension rights – that is rights up 1 October 2006 – are protected by law. Therefore it will only be your service after this date that could be affected.

6. 6. Will I still be able to retire before age 65?

Yes. The draft amendment regulations do not alter the provision in the LGPS that allows members who reach age 60 to make an election to receive their pension benefits early.

If your local government employment has ended and you are over 60, you do **not** need your employer's consent for the benefits to be paid – you are entitled to them.

When your administering authority calculate the amount of your LGPS benefits they will take into account your age, and how much membership you have, at the date the payment of your pension starts to determine whether, and to what extent, the benefits should be reduced to reflect any early payment.

7. 7. Can I work later to offset any reduction?

Yes. Some scheme members may wish to work later, and so continue to receive their salary for longer and accrue extra membership. The 40 year contribution limit has been removed.

8. 8. Does the LGPS allow members to retire between ages 50 and 60 with their pension paid from the date they leave?

The LGPS allows members who reach age 50 to make an election to receive their pension benefits. But, if your local government employment has ended and you are between ages 50 and 60, you need your employer's agreement to pay your pension early – you are **not** automatically entitled to your pension.

9. 9. How will the other scheme changes being proposed affect me?

The other scheme changes bring the scheme in line with the Finance Act 2004 and are connected with a new taxation regime from 6 April 2006. These proposals are mainly technical in nature and may be viewed in more detail at www.xoq83.dial.pipex.com/whatsnew.htm.

The proposals which have generated the most interest have been a) the provision to allow scheme members to take a higher lump sum on retirement by “commuting” some of their pension to lump sum at a certain rate (12 to 1) and b) the removal of the earnings cap. Pension fund managers will be able to advise scheme members in more detail as to how these changes might affect their future pension accrual and their choices at retirement.

10. 10. Taking a greater lump sum on retirement

The current LGPS is a final salary scheme with an accrual rate of 1/80th and gives scheme members an automatic tax-free lump sum of 3/80th of their final salary on retirement. In accordance with the new tax regime, scheme members may now take up to 25% of the capital value of their pension as a tax-free lump sum on retirement, by “commuting” (swapping) some of their pension for lump sum at a “commutation factor” of 12:1. The new maximum limit is greater than the current 3/80th LGPS lump sum. **This is an option for scheme members, it is not compulsory.** Pension fund managers will be able to advise scheme members in more detail as to their options.

It has been shown that this amendment will generate a saving to the Scheme, and that the saving associated with the accrued service of existing scheme members (some £1 ¼ billion) will pay for the cost of the 18 months service for all members under the 85 year rule from 1 April 2005 until 1 October 2006. The cost of this (some £520 – 590 million) had not been assumed at the 2004 fund valuations, because the Local Government

Pension Scheme (Amendment) (No.2) Regulations 2005, which were then subsequently revoked, had removed the 85 year rule from 1 April 2005.

11. 11. The removal of the earnings cap

This will only be of relevance to those members already earning in excess of the current cap on pensionable pay (£105,600). Scheme membership up to April will be reduced on a pro rata basis between the capped and the actual annual salary. The member receives an actuarially equivalent same pension as at April 2006. It is therefore incorrect to argue that high earners will be losing membership of the LGPS, when in fact their pension will remain exactly the same on an actuarially equivalent basis.

12. 12. I am a deferred member of the Scheme. What effect will the proposed changes have on my benefits?

None. A deferred member is someone who has left local government employment or who has opted to leave the LGPS, but is not yet entitled to the payment of his or her LGPS benefits. The proposed changes will have no effect on your deferred benefits **unless** you start a further period of LGPS membership **and** choose to join your deferred benefits with that membership.

However, you will have the option to take a greater lump sum when you retire by commuting some of your pension, as active scheme members will also be able to do.

13. 13. I am a pensioner member of the Scheme. What effect will the proposed changes have on my benefits?

None. If you are already receiving LGPS benefits the proposed changes will not have any effect on the pension you are receiving.

14. 14. I am a member of the Scottish LGPS – do these changes apply to me?

No, the Local Government Pension Scheme Regulations 1997 are only applicable in England and Wales. The relevant provisions in Scotland are the Local Government Pension Scheme (Scotland) Regulations 1998.

The Scottish LGPS arrangements are the responsibility of the Scottish Executive, as are any amendments to its regulatory framework. As in England and Wales, consultations are required on proposed amendments to the Scottish LGPS before regulations are finalised.

More information can be found at www.sppa.gov.uk

15. 15. Will Scotland follow whatever LGPS changes are introduced in England and Wales?

That is a matter for the Scottish Executive in the first instance.

16. 16. What about Northern Ireland?

The Northern Ireland LGPS is dealt the responsibility of the Department of the Environment, Northern Ireland, under separate legislation. As in England and Wales, consultations are required on proposed amendments to the LGPS in Northern Ireland before regulations are finalised.

More information can be found at www.doeni.gov.uk/lgd

17. 17. Will the changes affect ill health, redundancy or efficiency retirements?

No. The removal of the 85 year rule will not affect the pension benefits of those scheme members who happen to retire on grounds of ill-health, redundancy or efficiency.

Setting the record straight

The LGPS has received a lot of media attention in recent months and we would now like to set the record straight on a number of issues:

18. 18. Your proposals remove my contractual right to my pension benefits

This is not true. Local government employees have a contractual right to be members of the LGPS. The terms and conditions of the LGPS will alter from time to time. Such changes do not detrimentally affect the benefit rights of members which have already accrued, and indeed it would be unlawful for them to do so. However, changes in terms and conditions may affect the future accrual of benefit rights or alter benefits which may be accrued in the future. This is entirely lawful, and the fact that it has been possible to accrue a particular benefit in the past does not oblige the Scheme to continue to allow members to accrue it in the future. Members have no legal expectation that the Scheme will not change - only that their accrued rights will not be taken away.

19. 19. The 85 year rule is not discriminatory

This is not true. The government's legal advice has been clear.

The following example may be useful in demonstrating the age-discriminatory aspects of the rule: Two Scheme members are in comparable situations but for their age; one is aged 61 and the other is aged 63; they started work on the same day and both have 22 years service and wish to retire; the 63 year old would receive a full pension, as they satisfy the 85 year rule ($63 + 22 = 85$), whereas the 61 year old would suffer an actuarial reduction to their pension ($61 + 22 = 83$), as they do not satisfy the rule.

The reason for the different pension entitlement is on the basis of age; therefore the rule is age discriminatory.

The 85 year rule not only discriminates against age, but there is also some evidence to suggest it discriminates indirectly against women, as their length of service is likely to be less than men's (because, for a number of well-known reasons, women may start work for their employer later), and they are, therefore, less likely to be in a position to qualify for the 85 year rule.

20. 20. Why are you not protecting all Local Government employees like the deal struck for civil servants, teachers and health workers?

There has been no "deal" struck for the other public service schemes - the PSF Agreement provided a framework of principles for the civil service, teachers and NHS pension schemes, but reform is now subject to scheme specific negotiations. It was made very clear that the PSF Agreement did not apply to the LGPS.

The LGPS is different to the other public service pension schemes for the following reasons:

- ▪ The civil servants, NHS and Teachers have a normal retirement age of 60 and can stay in work beyond 60
- ▪ The LGPS has had a normal retirement age of 65 since the 1920s with a facility to retire early
- ▪ This facility (the 85 year rule) is age-discriminatory
- ▪ The other public sector schemes do not have this
- ▪ The LGPS is a funded pension scheme with different financing arrangements
- ▪ The other public sector schemes are unfunded, pay-as-you-go schemes which can manage short, medium and long-term costs in a different way

The transitional protections will therefore also be different, and continuing the discriminatory 85 year rule for the lifetime of existing scheme members cannot be objectively justified.

The Government has already introduced protections for existing scheme members closest to retirement (those who will be 60 and satisfy the 85 year rule by 31 March 2013), but has also called on the trades unions and local government employers to begin talks, to start now on a nothing ruled in nothing ruled out basis, to address the protection of existing Scheme members, the recycling of savings, and the development of a more equitable Scheme. The Government stands prepared to introduce further amendments before the Summer Recess to update the Regulations in light of any agreed proposals which emerge from the talks.

Up to 50% of savings resulting from the removal of the 85 year rule can be recycled into benefit improvements in an affordable, equitable and legal new-look scheme from 1 April 2008 that is fair to taxpayers. This would be for the benefit of all scheme members, not just for those who stand to benefit from the 85 year rule.

21. 21. The LGPS is the poor relation of the public sector pension schemes.

This is not an argument we recognise. The LGPS is a good quality pension scheme offering stable and attractive benefits to Local Government workers.

Although in some instances average pensions appear low, this is a reflection of the relatively short periods of membership of the Scheme, now less than 8 years in average.

22. 22. Why can't you agree to "no change without agreement" for the local government workers' pensions?

This would effectively require the retention of the discriminatory provision for the lifetime of all existing scheme members in the scheme. No proposal has been put forward by any party as to how these could be legally objectively justified.

23. 23. Why cant the retention of the 85 year rule be justified?

Some retention for those scheme members closest to retirement who do not have the time to make other arrangements can be justified but the Governments view is that this cannot be extended to the lifetime of all existing members in the Scheme.

Additional protection for existing scheme members to smooth transition to the new-look Scheme could also be objectively justified.

24. 24. Won't these changes simply add to the funding crisis facing our public services?

No. The LGPS proposals will fulfil the Government's commitment to Parliament that revocation costs would not fall to the local authorities

25. 25. How can the Government justify providing gold-plated public sector pensions which are paid for by council tax payers, who are unlikely to receive such favourable benefits in the private sector?

Reforms are being made to the LGPS precisely to ensure its affordability and sustainability for local authorities and its acceptability to tax payers.

Estimated total local government pension costs, including teachers, police and firefighters, total 6.6% of revenue, which is equivalent to 26% of total council tax, but this does NOT mean that a quarter of council tax goes on pension costs.

26. 26. What will the Government do about strike action by unions?

A strike ballot is a matter for the trades unions - The Government is not the employer and has been and continues to seek to facilitate discussions between employers and the trades unions.

27. 27. What is the long-term future of the LGPS?

Looking to the future, all LGPS interests are committed to sustaining and improving the scheme. The cost of the existing scheme is increasing as our longevity increases and adjustments need to be made so that it remains affordable, viable and fair to taxpayers. ODPM wants to continue holding meetings as planned, to discuss necessary reform of the LGPS with the trades unions, local government employers and other interested parties.

The Government and LGPS interests agree on its value and its importance in terms of motivating existing workers and in recruiting and then retaining staff. As local government and its associated employers and the trades unions accept, it is desirable that the Scheme now needs to be reformed to suit the workforce needs of the 21st century. For example, the workforce is increasingly made up of female part-time workers and, on average, people are living longer, compared to the early 1970s when the essentials of the current benefit structure of the Scheme were put in place.

28. 28. Will the Government confirm that 50% of savings will be recycled into the scheme?

Up to 50% of savings associated with the removal of the 85 year rule will be available for recycling into benefit improvements in the new look scheme for 2008. This scheme must be affordable, legal and fair to taxpayers.

29. 29. How will this work be taken forward?

Following the publication of and consultation on *Facing the Future: Principles and propositions for an affordable and sustainable Local Government Pension Scheme in England and Wales* in 2004, work has now begun, in consultation with LGPS interests, including the trade unions and with local government and other employers, at regular meetings, to prepare a policy discussion paper, to be published in June, for consultation and analysis throughout the summer on the form and content of a new-look Scheme. There is already a considerable degree of support for such an approach and for the key elements of such a Scheme at this time.

A number of working groups are currently contributing to the development of a new-look scheme. Work is progressing on specific issues such as Governance and Representation, Administration, Admitted Bodies and Ill-Health, through groups attended by the relevant experts. Two main groups are taking forward the development of a new benefit package for the new-look scheme - a stakeholder liaison group attended by the Tripartite Committee members (the LGA/EO and the trades unions) and a parallel group attended by non local authority employers, other trades unions and other LGPS interested parties such as Treasurers and HR professionals. The Government Actuary's Department, LGPS fund actuaries and other actuaries play an important role in these discussions and their costings will continue to form the basis of on-going work.

This important work will allow for the subsequent preparation of, and consultation, on the necessary legal framework for the new Scheme in autumn this year and for it to be in place for April 2007. This will then allow administrative authorities and employers time to prepare for the changes which take effect from April 2008 when the new-look Scheme becomes operational.

The Government is committed to good quality pensions for local government workers without placing an unfair burden on taxpayers.

**LGFPD
ODPM
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