Greater Manchester Pension Fund

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Local Government Pension Scheme
Amendment Regulations
Department for Communities and Local
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Dear Robert

Technical Consultation on Local Government Pension Scheme Rules – Local Government Pension Scheme Amendment Regulations

Tameside MBC is the administering authority of Greater Manchester Pension Fund ('GMPF'). GMPF is the largest LGPS fund in England and Wales with approximately 330,000 members, 450 contributing employers and assets with a value of approximately £16bn. This response is drafted from an administering authority perspective.

Comments on Annex A

The draft amendment regulations provide some of the clarity needed to apply the regulations and administer the scheme efficiently and, in the main, have the intended effect. Thus we give broad support to the proposed amendments to the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 effected by regulations 1 to 29, and 31 to 33 of the draft LGPS Amendment Regulations.

We recognise that some further amendments are required to certain provisions within the regulations to provide further clarity and make the scheme rules work as intended, but we leave the precise details of this to the Local Government Association (LGA)/Local Government Pensions Committee (LGPC) to comment on in their response to this consultation.

However, there are some areas we would like to make specific comment on and these are outlined below.

Regulation 3

While we support the proposed amendment to regulation 3(4)(b) of the LGPS Regulations 2013, we do not support this amendment being made retrospective to 1 April 2014, as proposed by draft regulation 1(2). This is because there are likely to be cases where the member has already been admitted under the existing LGPS Regulations 2013 from the date they made their election, instead of the first day of the following pay period. This would cause unnecessary administration because the contributions deducted between the date of election and the first day of the following pay period would need to be refunded. Therefore we would support this amendment being effective from the date the LGPS (Amendment) Regulations 2015 come into force.

Regulation 7

Agreed. And we support LGPC's recommendation that an appropriate amendment is made to regulation 16(15) of the LGPS Regulations 2013 to deliver the Technical Groups decision of 12 December 2014.

Regulation 11

We support LGPC's response to this proposed amendment (and their response to paragraph 27 of chapter 3 of the consultation document about the on-going final salary link for deferred pensions).

Therefore, we support an amendment to regulation 22(8) of the LGPS Regulations 2013 to put this provision back to mirroring the position that applied under the 2008 Scheme, i.e. move away from:

- a position of automatic aggregation with the right to elect within 12 months of re-joining the scheme (or such longer period as the employer allows) to retain separate deferred benefits,

to

- a position where the deferred benefits are not automatically aggregated but the member can elect to aggregate by making an election within 12 months of re-joining the scheme (or such longer period as the employer allows).

We would request that if the above proposed amendment is made that it is not retrospective amendment to 1 April 2014.

We also support an amendment to regulations 10(5) and 10(6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 so that the transfer value in respect of pre 1 April 2014 membership buys final salary membership instead of the current position of it buying an amount of earned pension in the member's active pension account.

Regulations 26 to 29

Agreed. With regards to the proposed amendments to Schedules 2 and 3 of the LGPS Regulations 2013, we confirm that the references relevant to GMPF in the schedules are in the legally correct form.

Regulation 31

Although we support the intention of the amendments to this provision to extend the additional membership counted for purposes of working out survivor pensions to cover membership covered by all types of voluntary contributions, we think how the amendment to regulation 17(13) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 is currently written doesn't achieve this. Therefore, we support the comments on this amendment that LGPC make in their response.

Comments on Draft Regulation 32

We make specific comment on draft amendment regulation 32 below.

Levying contributions on employers with no active members

As we have stated in our response to the other recent LGPS consultations, we believe the current challenges facing the LGPS are greater than ever before and administering authorities need all available tools at their disposal in order to meet the challenges of membership changes and managing deficits at both a whole fund and individual employer level. This includes fit for purpose investment regulations, encouragement and support to create strong governance arrangements and the ability to make key decisions at the local level.

GMPF is supportive of the proposed amendment to allow contributions to be levied on all scheme employers with no remaining active members, however such a change may have relatively little impact in the short term as GMPF has had very few instances of "Scheme Employers" (i.e. employers other than admitted bodies) having no active members remaining in the Fund whilst having material liabilities relating to deferred and pensioner members.

However, given that we do not see any drawbacks of having such a regulation in place, it appears sensible to make the proposed amendment both to help manage current employer issues and those that may arise in the future.

The suggestion of adding companies that are wholly owned by Scheme Employers to Part 1 of Schedule 2 of the LGPS Regulations 2013 also seems sensible although our view is that if the sole purpose is to protect taxpayers, this may not be required if the change to allow an exit contribution to be levied on all Scheme Employers discussed above is made.

Greater flexibility around exit payments

Our understanding is that 'Grace Periods', a period in which the departure of an employer's last active member does not automatically trigger an exit payment provided a new employee then joins, have existed in UK private sector pensions for a few years. We would be generally supportive of the introduction of grace periods in the LGPS, although we would like any regulations to be clear that the ability to apply a grace period is at the sole discretion of the administering authority. This would help ensure that the additional flexibility is used where an employer exit has been unintentionally triggered and not to assist employers trying to delay or avoid an exit payment.

These cases can be both complex and sensitive, e.g. the security that is available from the employer to the administering authority in the short to medium term and the impact on the employer and its employees if the enforcement of an exit payment results in the employer ceasing to be an operating entity.

Consideration should also be given to how administering authorities can ensure that the employer is no less likely to be able to meet the exit payment at the end of the period. There is a risk that an employer in financial difficulty repays other creditors over the period between the exit payment being triggered and the grace period expiring.

GMPF's view is that a year from the date of the last active members' exit might be an appropriate grace period. If the period is significantly less than a year then there is a danger that that the period might be close to elapsing before the issue comes to light. If it is significantly more than a year then the additional flexibility could be used to delay or avoid the exit payment.

Other thoughts

Whilst these proposed measures are helpful, we believe there are other areas where further thought could be given to assist administering authorities and employers and protect taxpayers. For example, some admitted bodies are effectively trapped in the LGPS due to the high cost of exit payments. This is due to a combination of these payments generally being calculated on low-risk assumptions and the current on-going deficits which exist in the majority of funds.

To avoid triggering an exit payment these employers continue to build up further LGPS liabilities and the consequences should contributions be insufficient to meet the benefits become even greater, thereby increasing risks further for taxpayers. In addition, if an insolvency event does eventually occur then the liabilities are increased further by any members over age 55 being eligible for unreduced early retirement.

We believe some consideration should be given at a national level to how some sort of managed exit process for certain employers (for example small charities) could be developed.

In addition, national consideration in the following areas could also add considerable value to taxpayers:

- Whether administering authorities can amend contribution rates outside of the valuation cycle in circumstances other than when an employer is 'likely to become an exiting employer' – for example a material change to an employers' business plans or balance sheet.
- The appropriateness of alternatives to cash funding by employers (such as the granting of security over income generating assets)
- An understanding of whether certain major LGPS employers without tax-raising powers (for example Further Education colleges and Universities) can enter insolvency and if so, what this insolvency event would look like.
- Ways to prevent the LGPS being sub-ordinated behind other creditors – for example giving administering authorities powers to prevent scheme employers (universities, for example) providing preferential security to banks or other pension schemes.

Comments on Chapter 3

Transfer of rights accrued in Additional Voluntary Contribution (AVC) arrangements

While we would support the approach set out in paragraph 25 of the consultation for a member who voluntarily transfers employment (because it is their choice and as with other provisions within the regulations where a member has to make a choice, they should be fully provided with details of the implications so that they can make an informed decision), we do not think this would be the right approach for members who are compulsory transferred.

For members who are compulsory transferred we would support a change to these provisions that does not put the member in a worse position than before the transfer through no fault of their own. So we would back an amendment to the relevant regulations that allows for members at the point of transfer, who are paying into an existing AVC arrangement that was started before 1 April 2014 and continues to pay AVCs immediately following the transfer, to be treated as if their AVC arrangement was still a pre-1 April 2014 arrangement (i.e. keep the same options at retirement in relation to their AVC fund as had before the transfer). Because of our experience of dealing with such transfers as part of the Ministry of Justice transfer to GMPF, we think such a change would help reduce the difficulties we encountered as part of that exercise. Thus, we note our actuary, Hymans Robertson's, response to this part of the consultation and are broadly supportive of the approach they put forward in their response to paragraphs 25 and 26 of the consultation.

Ongoing Final Salary Link for Deferred Pensions

As mentioned in our comments on Annex A, at Regulation 11, we back LGPC's detailed response to this part of the consultation.

Yours sincerely

Ged Dale – Assistant Executive Director Pensions Administration