

Vincent Kiddell  
Workforce, Pay and Pensions  
Department for Communities and Local  
Government  
SE Quarter Fry Building  
2 Marsham Street  
London  
SW1P 4DF

Guardsman Tony Downes House  
5 Manchester Road, Droylsden,  
Tameside, M43 6SF

Website: [www.gmpf.org.uk](http://www.gmpf.org.uk)

Date : 22 August 2016

Dear Vincent

## **Local Government Pension Scheme Amendment Regulations – Greater Manchester Pension Fund Response to Consultation**

I respond on behalf of Greater Manchester Pension Fund (GMPF) to this consultation.

Tameside MBC is the administering authority of GMPF. GMPF is the largest fund in England and Wales with approximately 350,000 members, 470 contributing employers and assets with a value of approximately £18 billion. This response is drafted from an administering authority perspective.

### **1. Comments on the Draft Regulations**

#### **General**

The draft regulations provide some of the clarity and corrections needed to apply the regulations and administer the scheme efficiently and we generally welcome the provisions covering Fair Deal and Freedom and Choice.

We broadly support the following proposed amendments:

- Temporary Reduction in Contributions – Draft Regulation 6
- Contributions During Absence From Work – Draft Regulation 7
- Assumed Pensionable Pay – Draft Regulation 10
- Retirement Benefits – Draft Regulation 12
- Survivor Benefits – Draft Regulation 14
- Employer's Further Payments – Draft Regulation 16
- Pension Funds – Draft Regulation 22
- Contributions – Draft Regulation 27
- Transitional Provisions – Draft Regulation 30

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

- Rights To Payment Out Of The Pension Fund, And Inward Transfers Of Pension Rights – Draft Regulations 17 & 18

- Effect Of Acceptance Of A Transfer Value – Draft Regulation 19
- Interpretation – Draft Regulation 20
- Interfund Adjustments Etc. – Draft Regulation 26
- Rule of 85 – Draft Regulation 29

### **Specific regulations**

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

#### ***Fair Deal – Draft Regulations 3 to 5***

While we welcome the introduction of the New Fair Deal principles into the LGPS, we think further clarification on how the proposals will work in practice would be beneficial. Questions are posed too about the intention and potential consequences of implementing the regulations as currently written.

We note the response of the LGA and LGPC and that of our actuary, Hymans Robertson to this part of the consultation and are in the main supportive of their comments.

In particular we would echo Hymans Robertson's comment that there appears to be no explicit requirement in the draft amendments for a ceding employer to be responsible for ensuring pension protection of protected transferees, either as part of an initial contractual arrangement, sub-contracting or subsequent tender exercises. It would be helpful for the draft amendments to make it clear that this responsibility rests with the ceding employer at all times and remains enforceable against them by the protected transferees.

GMPF's policy in recent years has been for the liabilities relating to each new admission agreement to be guaranteed by the ceding Scheme Employer. Unless the GMPF Management Panel provides its consent, which would only be given in exceptional circumstances, if the ceding employer cannot provide the guarantee then either a) the transfer of staff would not go ahead, or b) alternative pension arrangements would need to be provided to the transferring staff. Under the New Fair Deal option b) would no longer be available and there is potential for a 'stalemate' in negotiations between the administering authority and the employers.

This is particularly important in light of the intention of Draft Regulation 21, which makes clear that admission agreements can be backdated. GMPF believes there is a real risk of a 'stalemate', where the ceding and receding employer are unwilling to provide the level of security that the administering authority requires in order to protect other employers in their fund and negotiations with the administering authority continue long after the staff have transferred to their new employer.

It would be helpful for administering authorities if there was a legal requirement to notify the administering authority (other than in certain exceptional circumstances) well in advance of the effective date of any transfer. This would mean that the terms of the deal could be amended to reflect the requirements of the administering authority or even cancelled altogether should the administering authority and employers be unable to agree terms in relation to providing security for the LGPS benefits.

Whilst they have seldom or ever been used in practice, GMPF's admission agreements generally contain clauses which allow the administering authority to terminate the agreements should the admission body not comply with their duties under the agreement. Once New Fair Deal is introduced the sanctions available to administering authorities to ensure employers comply with their duties will be reduced. Consideration should be given to ensuring the powers of the Pensions Regulator are sufficient to ensure admission bodies continue to comply with their duties as employers.

### ***Additional Voluntary Contributions (AVC) – Draft Regulations 8 & 9 and 28***

We welcome and are in the main supportive of the proposed amendments. However, GMPF's view is that the draft amendments don't quite do what we understand is intended. Further clarity is needed on how the proposals will work in practice, particularly around process. We support LGA's and LGPC's response on the AVC amendments to incorporate Freedom and Choice, including that the proposed changes should be effective from 1<sup>st</sup> April 2017 to allow time to implement new processes and requirements and to make sure LGPS Funds and AVC providers can comply with the Disclosure Regulations and get communication material in place.

### ***Pension Accounts – Draft Regulation 11***

We have consistently supported a change to the regulations so that we move back to mirroring provisions in the 2008 Administration Regulations. We therefore support the proposed amendment to regulation 22(8) of the LGPS Regulations 2013 and add that this provision needs to be replicated in regulation 22(7) of the LGPS Regulations 2013. We wholly support LGA's and LGPC's comments in their response to the consultation on this area, particularly on the need for transitional provisions and also on auto-aggregation in respect of TUPES and not having the choice in these cases to keep deferred benefits separate (so a return to the position as was under regulation 16(6) of the 2008 Administration Regulations).

### ***Election for Lump Sum Instead Of Pension – Draft Regulation 13***

Agreed. And we support LGA's and LGPC's comments and suggestions for rewording this regulation. We also agree with the point they make about revaluation and the timing of BCE's and the Treasury Order, what to include and that an additional exclusion is needed.

### ***Special Circumstances Where Revised Actuarial Valuations and Certificates Must Be Obtained – Draft Regulation 15***

We are generally supportive of introducing the ability to pay an 'exit credit' to employers who are ceasing participation as this should put administering authorities in a stronger position when setting contribution rates upon an employer's entry to the Scheme.

However, we do not think the 1 month deadline to pay any exit credit is practical. From an actuaries' perspective, calculating exit debts or exit credits is one of the more risky activities as any errors crystallise a loss for either the fund or the employer. (Whereas errors in calculating contribution rates only impact the 'pace of funding' rather than the ultimate cost and can be corrected at the next valuation). In order to undertake the calculations and issue any exit credit the actuary will want to be confident the data is correct and this will involve, amongst other things, receiving accurate data on the active members who are ceasing active service from the departing employer (which could be in administration or liquidation) and ensuring other member data is accurate and up to date.

GMPF's view is that the timescales for paying exit credits should be consistent with those for receiving exit payments from a departing employer, which is 'such period of time as the administering authority considers reasonable'.

### ***Scheme Employers – Draft Regulation 21***

While we support LGA's and LGPC's response to this consultation in relation to the appropriate amendments needed to draft regulation 21, we have some reservations regarding the proposed amendment to Schedule 2 of the LGPS Regulations 2013 at paragraph 14 and its interaction with the New Fair Deal regulations. As set out earlier in our response, from our experience, making the regulations clear that backdating admission agreements is allowed, could cause some unexpected consequences such as protracted stalemates in making admission agreements. In our view there

needs to be a duty imposed on the ceding employer to ensure the admission agreement is made within a reasonable timeframe.

***Membership Before 1st April 2014 – Draft Regulation 24***

This is a change we have sought and have been strongly supportive of as a Fund. Therefore we welcome and wholly support this proposed amendment. With regards to the question posed at paragraph 23 of chapter 3, we also support the extension of the removal of employer consent to the earlier schemes revoked regulations. In terms of how that might be achieved, we support LGA's and LGPC's suggestion in their response to this consultation on this matter.

***Transfers – Draft Regulation 25***

We strongly oppose the proposed statutory underpin amendment that would give underpin protection for someone who transferred in to the LGPS from another public sector scheme, even if they would never have qualified for an underpin under the LGPS regulations. Our opposition is based on the cost implications for the scheme and the impact on the cost control measures. Therefore, we support LGA's and LGPC's response to this consultation in relation to their opposition to the extension of underpin protections. We also agree with the LGA and LGPC that if this amendment is enacted that it is not backdated.

**2. Practicalities of Implementation**

It is noted from the draft regulations that a number of the proposed amendments will also require an update to the actuarial guidance. It is vital that any amendments to the actuarial guidance documents are not delayed and are made alongside the proposed amendments to the LGPS regulations. Late notification of actuarial guidance (and regulations) causes challenges for administering authorities in facilitating effective and efficient implementation. As an example, at the time of writing, we are still waiting for the transitional arrangements letter in respect of the actuarial guidance issued in April 2016 which means we have been unable to process some cases since April and have been stockpiling. This is why it is also important that any transitional arrangements as a result of amended regulations and/or actuarial guidance are not delayed either.

Yours sincerely

Euan Miller – Assistant Executive Director Pensions Funding and Business Development