Department for
Communities and
Local Government

Local Government Pension Scheme 2014: Draft regulations on membership, contributions and benefits

Consultation

December 2012
Department for Communities and Local Government

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, email contactus@communities.gov.uk or write to us at:

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The consultation process and how to respond

Scope of the consultation

Topic of this consultation:	Local Government Pension Scheme Regulations 2013 and Scheme description.
Scope of this consultation:	This consultation seeks responses from interested parties, including councillors and their representative bodies, on draft regulations for the new Local Government Pension Scheme to come into force in April 2014. This consultation only covers the core elements of the new scheme, in particular, the provisions relating to membership, contributions and benefits. A second consultation exercise covering the remainder of the new scheme will follow shortly.
Geographical scope:	England and Wales.
Impact Assessment:	To follow.

Basic information

To:	This consultation is aimed at all Local Government Pension Scheme interested parties.
Body responsible for the consultation:	The Department for Communities and Local Government is responsible for policy and the consultation exercise.
Duration:	7 weeks. As timing allows, account will be taken of representations made after the close of the consultation.
Compliance with the Code of Practice on Consultation:	This consultation complies with the Code and it will be for 7 weeks. We are seeking views from the following parties with an interest in the Local Government Pension Scheme: The Welsh Assembly The Chief Executives of: County Councils (England) District Councils (England) Metropolitan Borough Councils (England) Unitary Councils (England) County and County Borough Councils in Wales London Borough Councils

	South Yorkshire Pension Authority Tameside Metropolitan Borough Council Wirral Metropolitan Borough Council Bradford Metropolitan City Council South Tyneside Metropolitan Borough Council Wolverhampton Metropolitan Borough Council London Pension Fund Authority Environment Agency Town Clerk, City of London Corporation Clerk, South Yorkshire PTA Clerk, West Midlands PTA Fire and Rescue Authorities in England and Wales Police and Crime Commissioners England and Wales National Probation Service for England and Wales Local Government Association (LGA) Employers' Organisation LGPC ALACE PPMA SOLACE CIPFA ALAMA Association of Colleges Association of Consulting Actuaries Association of District Treasurers Society of County Treasurers Society of Welsh Treasurers Society of Metropolitan Treasurers Society of London Treasurers Association of Educational Psychologists NAPF NALC Society of Local Council Clerks Trades Union Congress GMB UCATT UNISON Unite NAEIAC NAPO Equality and Human Rights Commission

Background

Getting to this stage:	The Government commissioned Lord Hutton to chair the Independent Public Service Pensions Commission to review public service pensions and to make recommendations on how they can be made sustainable and affordable in the long term, and fair to both public sector workers and the taxpayer. Lord Hutton's final report was published on 10 March 2011. In that report he made clear that change is needed to "make public service pension schemes simpler and more transparent, fairer to those on low and moderate earnings".
Previous engagement:	The Government and the Trades Union Congress held a series of meetings to discuss public service pension reform. One outcome of these discussions was that there should be scheme level discussions alongside the central process to ensure a fuller understanding of the implications of reform for each individual scheme. These scheme level discussions culminated in the Government agreeing that the Local Government Association and local government trades unions should come forward with a set of high level principles for the reformed Scheme. Following this the Local Government Association and local government trades unions consulted their respective memberships and other scheme interested parties on detailed proposals for the design of a reformed Scheme based on the set of previously agreed principles. These informal consultations received overwhelming support which allowed the Department to take forward the proposed scheme design as the basis for this statutory consultation exercise.

How to respond

1. You should respond to this consultation by **8 February 2013**.

2. You can respond by email to Philip.perry@communities.gsi.gov.uk

When responding, please ensure you have the words "LGPS Regulations 2013" in the email subject line.

Alternately you can write to:

LGPS Regulations 2013
Department for Communities and Local Government
Zone 5/G6 Eland House
Bressenden Place
LONDON SW1E 5DU

3. When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please give a summary of the people and organisations it represents and, where relevant, who else you have consulted in reaching your conclusions.

Additional copies

4. This consultation paper is available on the Department for Communities and Local Government website at: www.gov.uk/dclg

Confidentiality and data protection

6. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

7. If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.

8. DCLG will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Help with queries

10. Questions about the policy issues raised in the document can be sent to the address given at paragraph 2 above.

11. A copy of the consultation criteria from the Code of Practice on Consultation is at www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please email: consultationcoordinator@communities.gsi.gov.uk

or write to:

DCLG Consultation Co-ordinator, Zone 8/J6, Eland House, Bressenden Place London SW1E 5DU.

Contents

Chapter 1 - Introduction

1.1 This document commences a period of statutory consultation on the new Local Government Pension Scheme (“LGPS”) which will come into effect from 1 April 2014. Your comments are invited on the first set of draft regulations at **Annex A**.

1.2 **The closing date for responses is 8 February 2013**.

Background and context

1.3 This consultation on the LGPS Regulations 2013 represents a key step in the process of reform that began with the commitment given in the Coalition Government’s programme to review the long term affordability and sustainability of public service pension schemes.

1.4 After the Independent Public Service Commission published its final report in March 2011, the Government and the Trades Union Congress held a series of meetings to discuss public service pension reform. One outcome of these discussions was that there should be scheme level discussions alongside the central process to ensure a fuller understanding of the implications of reform for each individual scheme.

1.5 These scheme level discussions culminated in the Government agreeing that the Local Government Association (“LGA”) and local government trades unions should come forward with a set of high level principles for the reformed Scheme. In setting this objective, both parties accepted that any agreement should be subject to consultation with, and confirmation by, their respective memberships. A copy of the principles paper *Employer and Union Agreement on the Future of the LGPS* is attached at **Annex C**.

1.6 In February this year, the LGA and local government trades unions submitted detailed proposals to Ministers for the design of a reformed LGPS based on the set of principles agreed earlier. This was followed by extensive and constructive discussions between Government, the LGA and trades unions to ensure that the future service cost of the proposed scheme could be reconciled by the Government Actuary’s Department to fall within the agreed 19.5% cost ceiling. A copy of the final proposal is attached at **Annex D**.

1.7 In his letter of 30 May, Bob Neill, the former Local Government Minister, confirmed that the design proposal could proceed to a non-statutory, informal consultation by the LGA and local government trades unions on the basis set out in their principles paper at **Annex C**. In that letter, the Minister confirmed that a favourable outcome of the informal consultation would enable the Department to move directly to a statutory consultation to implement these proposals.

1.8 The informal consultations took place between the beginning of June and the end of August and resulted in overwhelming support. The proposals were supported by 93% of employers; 90% of UNISON members; 95% of GMB members and 84% of Unite members[1]. The majority of other unions with members in the LGPS, apart from the Fire Brigades Union, also accepted the proposals. This clear mandate now enables the Department to take forward the proposed scheme design as the basis for this statutory consultation exercise. The main parameters forming the basis of the statutory consultation are set out below:

- A start date of April 2014 with core elements of the new scheme regulations in place by Spring 2013
- A pension scheme design based on career average and actual pay
- An accrual rate of 1/49th of pensionable earnings each year
- Revaluation of active members' benefits in line with a price index (currently Consumer Prices Index)
- A Normal Pension Age equal to the State Pension Age, which applies both to active members and deferred members (new scheme service only). If a member's State Pension Age rises, then Normal Pension Age will do so too for all post-2014 service
- A low cost optional arrangement allowing 50% of main benefits to be accrued on a 50% contribution rate
- Pensions in payment to increase in line with a price Index (currently Consumer Prices Index)
- Benefits to increase in any period of deferment in line with a price index (currently Consumer Prices Index)
- Average member contribution yield of 6.5%, with tiered contributions
- Optional lump sum commutation at a rate of £12 of lump sum for every £1 per annum of pension foregone in accordance with HMRC limits and regulations
- Early/late retirement factors from age 55 on an actuarially neutral basis
- A vesting period of two years

[1] A copy of the *LGPS 2014 - Joint Statement* can be found at www.lgps.org.uk

- Spouse and partner pensions to continue to be based on an accrual rate of 1/160 and three times death in service benefit

- Ill-health retirement pensions to be based on the current ill-health retirement arrangements.

There will be transitional protection in respect of:

- All accrued rights are protected and those past benefits will be linked to final salary when members leave the scheme

- Protection underpin for members aged 57 to 59

- Rule of 85 protection as in the current scheme.

1.9 In addition to the proposals on the new scheme design on which the attached draft regulations are based, the LGA and trades unions submitted further proposals to Ministers at the end of July on other aspects of the scheme design relating to governance, cost control and scheme administration. Tripartite discussions between Government, the LGA and the trades unions are ongoing and everything possible is being done to bring these discussions to a successful conclusion for all parties. Our intention remains to consult formally on these Workstream 2 proposals as early as possible next year.

Timing and process

1.10 Under the agreement reached with the LGA and trades unions, the reformed scheme will come into force in April 2014, a year ahead of all other public service pension schemes. This has implications under the Public Service Pensions Bill[2] which may not be enacted by the time the regulations we are consulting on need to be made and laid in Parliament. The 2013 scheme regulations are therefore being made under the Superannuation Act 1972.

1.11 In practical terms, this means that we will need to come forward with a second set of draft regulations early next year to cover outstanding proposals on governance, cost control and scheme administration; any provisions that are needed to ensure compatibility with the Bill; and finally transitional provisions to take forward necessary protections, both existing and new, including those set out in last year's agreement. Our intention is to commence a series of meetings in the New Year with the LGA, local government trades unions and other scheme interests to consider and determine the scope and content of

[2] The Public Service Pensions Bill introduced on 13 September sets out new arrangements for the future of public service pension schemes. This Bill provides a strengthened framework for administration, transparency, governance and cost control of the schemes, including the Local Government Pension Scheme.

amendments to the transitional provisions and, in particular, to ensure that the protections referred to in paragraph 1.8 are taken forward.

1.12 A vital part of this process will be to give practitioners, fund actuaries, IT/payroll providers and other scheme interests as much notice as possible about the new Scheme. Various meetings have already been held with these interested parties all of whom have expressed the importance of seeing actual regulations at the earliest opportunity. To this end, our intention will be to make a statutory instrument comprising the core elements of the new Scheme by Spring next year. However, a degree of flexibility around the date of introduction may be necessary depending on the level and nature of the responses to this consultation. This statutory instrument would then be consolidated with the additional regulations which emerge from the second consultation exercise on the remainder of the new Scheme.

1.13 To ensure that the core elements of the new Scheme are on the statute book in time for the 2013 Scheme valuation, we have had to issue the draft regulations without the definitions listed in Schedule 1 being complete. Subject to comments from consultees, our intention will be to rely on the existing definitions where these exist. For any new definition, for example, “revaluation adjustment”, we would welcome suggestions on what should be used. We also invite consultees to let us know if there are any important provisions which are missing from this draft, in terms of taking forward the scheme design set out at **Annex D**, and which needs to be in place in time for the 2013 Scheme valuation.

Structure

1.14 A description of the proposed regulatory structure is set out in a table of origins at **Annex B**. Although not a formal consolidation exercise, the opportunity is being taken to streamline the main provisions of the Scheme into one single statutory instrument.

Consultation responses

1.15 In view of the favourable outcome to the informal consultation held by the LGA and trades unions in the Summer and the target of introducing the core elements of the new Scheme in the Spring in time for the 2013 valuation exercise, Ministers have agreed to a consultation period of 7 weeks. We recognise that this represents a challenging timetable, particularly at this time of year, but allowing a longer period would extend the process beyond the time needed for actuaries and others to adapt their procedures and software in time for the 2013 valuation and coming into force date of April 2014.

1.16 To take account of this challenging timetable and to allow for the fullest response to proposed Scheme regulations, every attempt will be made to include any late submissions.

1.17 Your comments should therefore be sent by 8 February 2013 to LGPS Regulations 2013, Department for Communities and Local Government, Zone 5/G6, Eland House, Bressenden Place, London SW1E 5DU. Electronic responses can be sent to Philip.perry@communities.gsi.gov.uk.

Related proposals

Councillor's pensions

1.18 On 19 December, the Local Government Minister, Brandon Lewis, made a statement to the House setting out the Department's intention to remove access for councillors to the LGPS in England from April 2014. A copy of the statement is attached at **Annex E.** We will issue a separate consultation paper at the earliest opportunity as part of the planned consultation on the wider reform of the LGPS.

Fair Deal

1.19 Discussions are taking place on the implementation of Fair Deal equivalent arrangements for the LGPS. As the Chief Secretary to the Treasury has stated, all staff whose employment is compulsorily transferred from the public service under TUPE, including subsequent transfers, to independent providers of public services will retain membership of their current employer's pension arrangements.

Cost control

1.20 Following constructive and helpful discussions with the LGA and local government trades unions on proposals to manage future cost risks, a paper has been agreed as the basis for future discussions on the detail of the new arrangement. A copy of the paper is attached at **Annex F.** The second set of draft regulations referred to earlier in this paper will include provisions to take forward this arrangement. Comments will be invited at that stage.

Governance

1.21 Ministers are fully committed to establishing a National Advisory Board for the LGPS which, amongst other things, will allow employers, trades unions and other scheme interests to effectively manage the ongoing costs of the Scheme design via the agreed cost control arrangement (see preceding paragraph). Discussions about the precise role, composition and scope of the proposed Board are ongoing but our intention remains to issue further details, followed by a consultation on draft regulations, as soon as possible in the New Year.

Chapter 2 - Proposals for consultation

The Regulations are being made under the Superannuation Act 1972. DCLG do not rule out future modification necessitated by the enactment of the current Public service Pensions Bill.

Part 1 Membership, contributions and benefits

Preliminary Provisions

Regulation 1 makes it clear that the Regulations have no effect until 1 April 2014, (although DCLG anticipate that the statutory instrument will be laid in Spring 2013).

Regulation 2 is an introductory provision. It states that the scheme manager will be responsible for the local administration of pensions and other benefits under these Regulations and will continue to be known as an “administrating authority”. Each Fund will have a pension board that will be responsible for assisting the scheme manager in compliance with the relevant requirements.

Membership

Regulation 3 deals with eligibility for membership and related matters. Employment with local authorities and a number of bodies listed in Part 1 of Schedule 2 assures eligibility for membership. Individuals listed in Part 4 of Schedule 2 also enjoy potential eligibility. Employment with a number of other bodies, listed in Part 2 of Schedule 2 only results in eligibility if a post or individual has been suitably designated. Similarly, admission agreements provide a further route to eligibility, but only if there has been designation as appropriate. As with the equivalent provision in the current Administration Regulations (AR13), the provision supports the employer duties introduced in the Government’s recently-introduced system of auto-enrolment under the Pensions Act 2008. Individuals with an employment contract of less than three months are not automatically enrolled, but they may nevertheless apply for membership. Members only become eligible for benefits once they have achieved a total membership of at least two years.

Regulation 4 stipulates that if an individual is entitled to membership of another public service scheme (although there are specified exemptions to this rule with regard to certain NHS employees), is aged 75 or over or a member of another occupational scheme through employment by an admission body, that person is prevented from joining the LGPS. Comments would be welcome on whether the age 75 limit in the Regulations continues to be appropriate. This currently applies to making contributions, receiving benefits and the award of death grant. It should be noted that, were contributions to be permitted beyond the age of 75, they would not qualify for tax relief.

Regulation 5 sets down the rules for ending active membership, which means ceasing to be a contributing member. This may occur either on the member's own initiative or through the ceasing of eligibility. If a member has not completed a total of at least two years' membership, normally there is no entitlement to benefits and contributions are returned. As with the current Regulations, on reaching age 75, it is no longer permitted to contribute to the Scheme.

Regulation 6 details the category known as deferred and deferred pensioner membership. This covers members who have qualified for potential benefits, have ceased to contribute and who are not yet drawing pension. Also, those whose Tier 3 ill health benefits have stopped. Separate periods of employment are dealt with in separate pension accounts, which means that a member may fall into more than one category of membership at the same time.

Regulation 7 specifies that pensioner members are those drawing benefit.

Regulation 8 sets down that credit members are those awarded a potential benefit through a court order following a divorce (or dissolution of a civil partnership) from a member of the Scheme. Survivor benefits are available to qualifying partners and children of Scheme members who have died.

Contributions

Regulation 9 includes a contribution table which sets down the scale whereby it is ensured that higher-earning members pay a higher proportion of their earnings to their Pension Fund than lower-earning colleagues. During the course of the year, if there is a substantive change to an individual's pay, the employer may determine that a different point in the scale should apply. Each year the pay ranges are updated so that members are not disadvantaged by any inflation-related pay increases to their salaries. Whereas under the current Regulations part-timers are placed in the band pertaining to the post that they occupy (ie full-time equivalent), they will now be banded on the basis of actual earnings.

By virtue of **Regulation 10,** an active member is entitled to choose temporarily to pay contributions at 50% of the normal rate. It is important to appreciate that this will have a significant effect on the level of pension benefits which are ultimately received, with a 50% reduction in respect of the period concerned, and employers are obliged to inform members of this. Members who elect for the 50% option will return to their normal contribution rate at the date of their auto-enrolment or auto-re-enrolment. If an individual wished to remain with the 50-50 option, they would accordingly have to opt into it about every three years.

Regulation 11 introduces the rules for making contributions during four different types of absence from work – 1) child-related, 2) reserve forces service, 3) trade dispute and 4) absence with permission. Provided that contributions are paid as necessary, individuals continue to increase their pension pots during such absences. If an individual fails to pay contributions, pension no longer continues to accrue.

Regulation 12 sets down the pension arrangements during child-related leave. Contributions must be paid on any pay received. The Regulation details the different types of leave for which either contributions are not required or for which they do need to be paid for the period concerned to effectively count as active membership.

Regulation 13 deals with reserve forces service leave, specifying that for active membership to be valid it is only necessary to pay contributions if the member is receiving at least the same level of pay as had been received under local government employment.

Regulation 14 provides that to make contributions during trade dispute absences, members must continue to pay contributions at 16% of the pay lost if they are not to lose any active membership.

Regulation 15 details a member's obligations to make contributions during absences with the employer's permission. Different rule apply according to whether the absence is for up to 30 days or over, and on the reason for the absence concerned.

Regulation 16 ARCs sets out the detailed provisions whereby active members may purchase additional pension within the LGPS. Members may do so in respect of themselves only ("MARCS") or in respect of themselves and potential survivors (MASARCS). Such arrangements should at the outset include details of pension amounts and the payment period, and, in the light of actuarial advice, the amount of extra contribution to be paid each scheme year. The payment of contributions finishes either at the prearranged time, at an earlier point if the member so wishes or at the time of a number of other occurrences set down in the Regulation.

Under **Regulation 17,** active members may elect to pay Additional Voluntary Contributions (AVCs) in order to participate in a money purchase pension scheme in addition to normal LGPS arrangements. As AVC benefits are accumulated entirely separately from main LGPS benefits, the provisions are largely unaffected by the change from the current final salary arrangements to a career average system. However, if the member decides to draw AVC benefits in the form of a lump sum, that sum has to be included when calculating the maximum amount permitted.

Under **Regulation 18**, as a consequence of the two year vesting period established in Regulation 4, members who have been members for a total of less than two years are entitled to a return of their contributions. They may, however, decide not to make such a claim, in anticipation of resuming active membership at a later date. This draft Regulation may be modified, as this is a matter which DWP are currently reviewing. There are exemptions, set down in

Regulation 19, to the right to a reimbursement, which have been established to encourage the ongoing accrual of pension where possible, or to ensure that appropriate action is taken against fraud. Any fraudulent action by members can result in the loss of the right to a refund.

Regulation 20 provides a definition of pensionable pay. This is provided both by setting down which broad types of payment of cash and other benefits should be included and also by making it clear which particular types should be excluded. The exclusions continue to cover certain categories of election fees.

Regulation 21 introduces the concept of assumed pensionable pay (APP), which means that a member is protected from the effects of certain types of reductions in pay. APP can be based on either a whole scheme (ie financial) year or a 12 week period. When pay is reduced in certain defined circumstances, contribution levels alter accordingly, but the level of benefit being earned continues as before for defined purposes. The effect of APP being used is described at a number of points in the 2013 Regulations.

Pension accounts

This section of the Regulations details the new system of pension accounts which will ensure that each member accumulates pension by means of the Career Average Revalued Earnings System.

Regulation 22 makes it clear that there must be a separate pension account for each employment giving rise to LGPS membership. There are seven types of pension accounts:

- For active members, who are contributing to the Scheme;
- For deferred members, who have qualified for potential benefits, but who are no longer contributing;
- For retired members, who are receiving pension;
- For flexibly retired members, who are receiving part of their pension;
- For deferred pensioner members who have received tier 3 ill health benefits and who are eligible to receive their normal retirement pension at normal pension age to receive an actuarially reduced retirement pension at age 55;
- For pension credit members, who will be entitled to pension by virtue of having been awarded part of an active member's entitlement in a divorce settlement;
- For survivors, who receive benefits by virtue of having been qualifying partners or children of members who have died.

Administering authorities should change the status of an account to ensure that a membership is always correctly identified as being in one of the above seven categories and should close an account completely when a membership is transferred out of the Scheme.

Regulation 23 describes the process which the administering authority must follow for each year that an individual is in active membership. In each year the pension earned in respect of each previous year is adjusted to allow for the effects of inflation (revaluation adjustment) and one forty-ninth of the earnings from the current year is added to the pension account. Under the new Regulations, members may elect temporarily to pay half of the normal contributions, but pension is only earned at half of the normal rate.

Regulation 24 establishes that when an individual ceases active membership but does not start to draw benefit, the member's active pension account is replaced by one for deferred members. If the member finishes active membership with a part-year, that period of membership is reckoned by the number of days concerned. Pensions increase is applied each year whilst the individual is in deferred membership (index rate adjustment).

Regulation 25 sets down the process which must take place when an active member retires and starts to draw pension. The pension account is adjusted to show an enhancement if the member draws benefit after state pension age or a reduction if the member draws benefit before state pension age. The pension is then further adjusted to take account of any commutation to a lump sum which may occur.

Regulation 26 details the course of action which must take place when pension is commenced for a deferred, deferred pensioner or credit member. Such members may give notice that they wish to draw pension at any time on or after the member's 55th birthday. The pension account is adjusted to show an enhancement if the member draws benefit after state pension age or a reduction if the member draws benefit before state pension age. The pension is then further adjusted to take account of any commutation to a lump sum which may occur. It should be noted, however, that deferred pensioner members are not permitted to commute to a lump sum as they get this opportunity to commute when they first retire and draw Tier 3 benefits.

Regulation 27 continues the facility for members to take flexible retirement. When this is permitted by the employer, a flexible retirement account is opened for the individual concerned. The account is adjusted to show an enhancement if the member draws benefit after state pension age or a reduction if the member draws benefit before state pension age. The pension is then further adjusted to take account of any commutation to a lump sum which may occur. The active member's pension account is maintained, but the amount is reduced according to how much is transferred into the flexible retirement account.

Regulation 28 stipulates that when a member who is in receipt of tier 3 ill health benefits either returns to gainful employment or ceases to receive tier 3 ill health benefits, a deferred pensioner member account must be opened for that person.

Regulation 29 stipulates that when a partner of an active member is awarded a pension credit by means of a divorce or dissolution of a civil partnership settlement, a pension credit account should be opened for that person.

Benefits

Regulation 30 sets the parameters within which retirement benefits can be taken. The “normal” point for this is the member’s state retirement age at the time, which, under the Pensions Act 1995, is subject to change in respect of all post 1 April 2014 membership. The earliest point at which retirement benefits can be taken is age 55. The latest point at which retirement benefits can be commenced is on reaching age 75. In cases of both “early” and “late” commencement of pension, appropriate actuarial adjustments are made – except that there is no reduction in cases of redundancy or where employers exercise their waiver.
There also continues to be a provision for flexible retirement from age 55 onward. Once pensions are in payment, as with the current arrangements, Pensions Increase will be applied annually and appropriate regulatory provision will be made for this.

Regulation 31 is based on current Benefits Regulation 13, so that employing authorities continue to have the power to award active members £5,000 per year of additional pension. Employers must make a payment to the administering authority, in order to ensure that such awards are properly funded.

Regulation 32 sets down the exact day on which payment of pension should commence, in each of the various scenarios which can lead to such commencement. With greater flexibility in the time at which pension can be commenced, members have an important responsibility to give the appropriate notice as required either to take or to defer pension.

Regulation 33 continues the facility for members to receive a lump sum in lieu of part of their pension. A maximum of a quarter of the capital value of the capital value of the pension may be commuted, at a rate of £12 for every £1 of annual pension given up by the member.

Regulation 34 provides that what would be only very small ongoing pension payments can be commuted into a single lump sum. The Regulation cites the various areas of legislation under which this is permitted.

Ill-health retirement

Regulations 35 - 39: in accordance with the Written Ministerial Statement, the principles of the ill health retirement provisions in the 2008 regulations have been carried across to the new Scheme. There is no intention to deliver a result that is not in the current ill health framework, but some adjustment has been needed to move the framework onto a CARE one, most notably the calculation of the 3 tiers of ill health benefits. Further, consultees should note that age 45 protections currently in Benefits Regulation 20 will be provided for in the draft Transitional Regulations to follow. Additionally, practitioners may wish to comment on the best way to restrict benefits where a member receives multiple ill health enhancement awards on the lines of Benefits Regulation 20(11A).

Survivor benefits

Regulations 40, 43 and 46 provide the power for administering authorities to pay death grants to individuals affected by the death of an LGPS member. The amount is calculated differently according to whether the member was active, deferred or drawing pension. Authorities continue to have a wide degree of discretion to decide to whom such grants should be payable and should exercise that discretion within two years of the death.

Regulations 41, 44 and 47 provide the power for administering authorities to pay survivor benefit to partners following the death of an LGPS member. The method of calculation varies according to whether the member had been an active, deferred or pensioner member. Under Regulation 41, the provision to disregard the reduction in earnings relating to part-time working arising from ill health is carried over into these provisions (this is also the case with Regulation 42). These provisions apply equally to surviving spouses, civil partners and nominated cohabiting partners. For cohabiting partners to qualify for benefit, under the current Regulations they have to be nominated by means of a process set down in Benefits Regulation 25. In the light of a potentially significant ruling last month in the High Court in Belfast, (see http://www.bbc.co.uk/news/uk-northern-ireland-20271150), comments are welcome on whether it may be feasible to introduce a less onerous system.

Regulations 42, 45 and 48 provide the power for administering authorities to pay survivor benefit to qualifying children following the death of an LGPS member. A larger amount of benefit in total is paid if there is more than one qualifying child and in such cases the children are paid in equal shares. The method of calculation varies according to whether the member had on death been an active, deferred or pensioner member.

Part 2

Administration

Regulation 49 obliges administering authorities to pay interest on payments due in respect of members. Different deadlines are stipulated depending on the type of payment involved. In the case of survivor benefit and death grant, beneficiaries must inform the administering authority of the member’s death. The administering authority is obliged to pay interest if it does not make payment to beneficiaries by the due date.

Regulation 50 observes the intent of current Administration Regulation 52, with the aim of promoting the efficient payment of amounts below a specified level due following the death of a member without the need for probate to have been granted.

Regulation 51 similarly observes the intent of current Administration Regulation 52A, ensuring that where an administering authority decides that a member is incapable of managing their own affairs, payments are re-directed to an individual with responsibility for the welfare of the member.

Regulation 52 replicates Administration Regulation 53, protecting members from the risk that payments received from the authority may be taken by their creditors.

Regulation 53 deals with the pension debits which must be made when a member loses part of the benefit as a result of a divorce settlement. Such debits must be made in accordance with actuarial guidance.

Regulation 54 maintains the intent of current Benefits Regulation 42, protecting the Fund by ensuring that a member may not make a double claim in respect of the same period of membership. Comments are invited as to whether such a provision continues to be necessary, as it is unclear whether a member could have any theoretical case for attempting to substantiate a double claim.

Regulation 55 in effect continues with the intent of Benefits Regulation 22, ensuring that the Scheme's benefit system is compliant with HMRC legislation on lifetime allowance for total benefits.

Schedule 1

This Schedule comprises terms used in the Regulations which are to be defined and this list may be subject to modification before final Regulations are made.

Schedule 2, Part 1

This Part lists those employers which have to offer Scheme membership to their employees. The list mostly follows the amended list in the current Administration Regulations.

Schedule 2, Part 2

This Part lists those employers which have to offer Scheme membership only to designated employees. The list mostly follows the amended list in the current Administration Regulations.

Schedule 2, Part 3

This Part describes what admission bodies are and no longer refers to separate community or transferee admission bodies. This follows the amendments made to the Scheme regulations under the LGPS (Miscellaneous) Regulations 2012 which consolidated some of the provisions formerly relating to a transferee admission body and extended their application to community admission bodies. An admission body providing the services as a result of the transfer of a function of a Scheme employer is a Part 3, 1 (d) body and certain arrangements continue to apply in respect of these bodies as they did for a transferee body. A parent guarantor can now be sought from the Scheme employer acting in the capacity of a letting authority in respect of a 1 (d) body. The separate provisions in Schedule 3 to the

Administration Regulations have been moved to Part 3 and that Schedule is no longer required.

Schedule 2, Part 4

This Part comprises a table listing certain individuals eligible for membership together with the bodies which are deemed to be their respective employers for the purposes of the Regulations. The basis of the table originates in Regulations 8, 8A and 9 of the current Administration Regulations. Registration officers are no longer included because they are covered by the provisions on local authority employees. References to the Chair of the London Transport Authority and the London Transport Users Committee have also been excluded, because the Mayor of London acts in these capacities. The Olympic Park Legacy Company was abolished with effect from 1 April 2012.

Annex A

STATUTORY INSTRUMENTS

2013 No.

PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme Regulations 2013

Made - - - -	***
Laid before Parliament	***
Coming into force - -	***

These Regulations are made in exercise of the powers conferred by sections 7, 12 and 24 of, and Schedule 3 to the Superannuation Act 1972.

In accordance with section 7(5) of that Act, the Secretary of State consulted such associations of local authorities as appeared to the Secretary of State to be concerned; the local authorities with whom consultation appeared to the Secretary of State to be desirable; and such representatives of other persons likely to be affected by the Regulations as appeared to the Secretary of State to be appropriate.

The Secretary of State makes the following Regulations:

PART 1

Membership, contributions and benefits

Preliminary Provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme Regulations 2013 and come into force on 1st April 2014.

(2) These Regulations extend to England and Wales.

(3) These Regulations apply in relation to the Isles of Scilly as if they were a district of the county of Cornwall and the council of the Isles of Scilly were the council of that district.

Introductory

2.—(1) These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of persons working in local government service referred to in these Regulations as "the Scheme".

(2) The scheme manager responsible for the local administration of pensions and other benefits payable under these Regulations is referred to in these Regulations as the "administering authority".

(3) Each administering authority shall establish a pensions board responsible for assisting it in relation to securing compliance with –

(a) these Regulations;

(b) any other legislation relating to the governance and administration of this scheme; and

(c) requirements imposed by the Pensions Regulator in relation to this scheme.

(4) Schedule 1 (interpretation) contains definitions of expressions used in these Regulations which apply for their interpretation unless the context indicates that they have a different meaning.

Membership

Active membership

3.—(1) Subject to regulation 4, a person is eligible to be an active member of the Scheme in an employment—

(a) if employed by a body listed in Part 1 of Schedule 2 (membership);

(b) if employed by a body listed in Part 2 of Schedule 2 and is designated, or belongs to a class of employees that is designated by the body as being eligible for membership of the Scheme;

(c) if employed by an admission body within the meaning of paragraph 1 of Part 3 of Schedule 2 and is designated, or belongs to a class of employees that is designated as being eligible for membership of the Scheme; or

(d) if specified in the first column of the table in Part 4 of Schedule 2.

(2) In the case of a person a person eligible for membership by virtue of paragraph 1(d), the person specified in the second column corresponding to that member is deemed to be that member's employing authority for the purposes of these Regulations.

(3) Unless employed under a contract of employment of less than three months, a person eligible to be an active member of the Scheme in an employment becomes an active member on the day that person's employment begins or (if later) the day the person becomes eligible for membership.

(4) Where an administering authority enters into an admission agreement with an admission body—

(a) the admission agreement must comply with the requirements specified in paragraphs 3 to 12 of Part 3 of Schedule 2; and

(b) these Regulations apply to the admission body and to employment with the admission body in the same way as if the admission body were a Scheme employer listed in Part 2 of Schedule 2.

(5) A person who is eligible to be an active member of the Scheme, but who is not an active member of the Scheme—

(a) may apply in writing to the person's employing authority to join the Scheme, and becomes an active member of the Scheme in that employment on the first day of the payment period following the application; but in any event,

(b) becomes a member of the Scheme in an employment on the auto-enrolment date or auto-re-enrolment date relating to that employment.

(6) An active member has qualifying service for a period of two years if—

(a) that member has spent two years as an active member of the Scheme;

(b) a transfer value payment has been accepted in respect of rights accrued in a different occupational pension scheme and that person spent two years as an active member in that scheme;

(c) the aggregate of the period the person has spent as an active member of the Scheme and of a different occupational pension scheme in respect of which a transfer value payment has been accepted, is two years;

(d) a transfer value payment has been accepted in respect of rights accrued in a scheme or arrangement that does not permit a refund of contributions to the member;

(e) a transfer value payment has been accepted in respect of rights accrued in a scheme and a contributions equivalent premium cannot be paid under section 55 of the Pension Schemes Act 1993;

(f) the member already holds a deferred benefit or is in receipt of a pension (other than a survivor's pension or credit member's pension) under these Regulations; or

(g) a transfer value payment has been made to a qualifying recognised overseas pension scheme (within the meaning of section 169(2) of the Finance Act 2004).

Restriction on eligibility for active membership

4.—(1) Subject to paragraph (2) the following are not entitled to be active members of the Scheme—

(a) a person entitled to membership of another public service pension scheme;

(b) a person aged 75 or over;

(c) an employee of an admission body who is a member of another occupational pension scheme in relation to that employment.

(2) Paragraph (1)(a) does not prevent a person entitled to be a member of the National Health Pension Scheme ("the NHS Scheme") for England and Wales if—

(a) the person's entitlement to be a member of the NHS Scheme is by reason of employment by—

(i) a Care Trust designated under section 77 of the National Health Service Act 2006,

(ii) an NHS Scheme employing authority as a result of a prescribed arrangement under section 75 of that Act, or section 33 of the National Health Service (Wales) Act 2006

(iii) the Care Quality Commission as a result of a transfer of employment from the Commission for Social Care Inspection, in connection with its dissolution under Part 1 of the Health and Social Care Act 2008;

(b) the person is designated, or belongs to a class of employees that is designated as eligible for membership of the Scheme in an admission agreement made between an administering authority and one of the bodies specified in sub-paragraph (a)(i) to (iii);

(c) the person was an active member of the Scheme immediately before becoming employed by one of those bodies; and

(d) the person is not an active member of the NHS Scheme.

Ending active membership

5.—(1) A person ceases to be an active member in an employment if that person ceases to be eligible for membership of the Scheme through that employment from the date that eligibility ceases.

(2) A person ceases to be an active member in an employment from the date specified in a written notice given by that person to that person's employing authority that the person wishes to leave the Scheme.

(3) But an active member who gives notice under paragraph (2) specifying a date earlier than the date the notice is given ceases to be an active member in that employment at the end of the payment period during which the notice is given.

(4) A person ceases to be an active member when that person attains the age of 75.

(5) A person who ceases to be an active member before being an active member of the Scheme for two years is to be treated as not having been an active member except for the purposes of regulation 19(1) (exclusion of right to refund of contributions when restarting active membership).

Deferred and deferred pensioner members

6.—(1) A person is a deferred member of the Scheme if—

(a) the person was an active member of the Scheme for at least 2 years or, where a transfer value payment has been accepted in relation to the person, the period of the person's active membership in the Scheme and in the membership to which the transfer payment relates, amounts to at least 2 years;

(b) the person is no longer an active member of the Scheme in relation to the qualifying service mentioned in sub-paragraph (a);

(c) the person has not started to receive any pension under the Scheme in relation to that qualifying service; and

(d) the person has not reached the age of 75.

(2) A person may be a deferred member of the Scheme in relation to one period of membership notwithstanding the fact that the same person is a member in a different category in relation to a different period of membership.

(3) A person qualifies to be a deferred pensioner member of the Scheme if that person was in receipt of Tier 3 benefits which were discontinued under regulation 37(3) or (6)(c).

(4) A person may be a deferred pensioner member of the Scheme in relation to one period of membership notwithstanding the fact that the same person is a member in a different category in relation to a different period of membership.

Pensioner members

7.—(1) A person is a pensioner member of the Scheme if that person was an active member of the Scheme and is in receipt of a benefit from the Scheme relating to that membership.

(2) A person may be a pensioner member in relation to one period of membership notwithstanding the fact that the same person is a member in a different category in relation to a different period of membership.

Pension credit and survivor members

8.—(1) A person is a pension credit member of the Scheme if that person is potentially entitled to a benefit under the Scheme as a consequence of a pension debit created under section 29 of the Welfare Reform and Pension Act 1999 in relation to a member of the Scheme.

(2) A person is a survivor member of the Scheme if that person is entitled to a benefit under regulations 41,42,44,45,47 or 48 (survivor pensions).

Contributions

Contributions

9.—(1) Subject to Regulation 10, each active member shall pay contributions to the Scheme at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which April 1st falls for each employment in which the member is an active member (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement of that membership).

(2) The contributions rates applicable are as specified in the following table, with the contribution rate specified in the right hand column applicable to the band of pensionable pay specified in the left hand column into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

Pensionable pay range	*Contribution rate*
Up to £13,500	5.5%
£13,501 to £21,000	5.8%
£21,001 to £34,000	6.5%
£34,001 to £43,000	6.8%
£43,001 to £60,000	8.5%
£60,001 to £85,000	9.9%
£85,001 to £100,000	10.5%
£100,001 to £150,000	11.4%
More than £150,000	12.5%

(3) Where there is a change in employment, or a material change to the terms and conditions of a member's employment, which affects the member's pensionable pay in the course of a financial year, the employing authority may determine that a contribution rate reflecting the different pay range should be applied and the authority shall inform the member of the contribution rate applicable and the date from which it is to be applied.

(4) On the first day of the pay period in which 1st April 2015 falls, and on the first day of the pay period in which each subsequent 1st April falls, the figures in the first column of the table in paragraph (2) are increased by applying the appropriate increase and rounding the result down to the nearest £100.

(5) In paragraph (4) "the appropriate increase" means the amount by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year if they were pensions to which the Pensions (Increase) Act 1971 applied.

(6) For this regulation and regulation 10 any reduction in pensionable pay by reason of the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work shall be disregarded for the purposes of identifying which is the applicable contribution rate.

Temporary reduction in contributions

10.—(1) An active member may elect to pay reduced contributions for a period by giving written notice to the member's employing authority that the member wishes to do so.

(2) Where a notice is given under paragraph (1), from the next payment period following the giving of the notice, the contribution rate payable on the member's pensionable pay is 50% of what would otherwise be payable under regulation 9.

(3) An active member may cancel the election under paragraph (1) at any time by giving written notice to the member's employing authority to this effect.

(4) Where a notice is given under paragraph (3) from the next payment period following the giving of the notice, the contribution rate payable on the member's pensionable pay is as provided by regulation 9.

(5) An active member's election under paragraph (1) is cancelled—

(a) on the member's auto-enrolment date or auto-re-enrolment date; and

(b) on the date 30 days after a member begins to be treated as receiving assumed pensionable pay under regulation 21, and

the contribution rate payable on the member's pensionable pay is as provided by regulation 9 from that date.

(6) A member may make a further election under paragraph (1) at any time when the member is liable to make contributions as is provided by regulation 9.

(7) The employing authority of any member who elects to pay reduced contributions under paragraph (1) shall give the member information about the effect on that member's likely benefits consequent to that election.

Contributions during absence from work

11.—(1) An active member must pay contributions under regulations 9 or 10 during an absence from work on child-related leave in accordance with regulation 12(1) if that applies and may pay contributions if regulation 12(3) applies.

(2) An active member must pay contributions under regulations 9 or 10 during an absence on reserve forces service leave in accordance with regulation 13.

(3) An active member absent from work because of a trade dispute may pay contributions under regulations 9 or 10 in respect of that period of absence in accordance with regulation 14.

(4) An active member absent from work with permission (otherwise than because of illness or injury) must pay contributions under regulations 9 or 10 in respect of that absence in accordance with regulation 15(1) if that applies, and may pay contributions in accordance with regulation 15(2) if that applies.

(5) A person remains an active member of the Scheme during any absence from work of the description mentioned in paragraphs (1) to (4) and continues to accrue earned pension in accordance with regulation 23(4) or (5) so long as, if required to pay contributions, those contributions are paid.

(6) A person ceases to accrue any further earned pension in the Scheme during any absence from work of the description mentioned in paragraphs (1) to (4)—

(a) if that person fails to pay contributions when required; or

(b) if that person is entitled to pay contributions but does not do so,

but that person does not become a deferred member of the Scheme.

(7) An application to make contributions relating to an absence from work, where permitted under these Regulations, must be made in writing to the member's employing authority before the expiry of a period of 30 days, or such longer period as the authority may allow, beginning with the day—

(a) on which the member returns to work after the absence; or

(b) on which the member's employment ceases, if the member ceases to be employed without returning to work.

Contributions during child-related leave

12.—(1) An active member on child-related leave must pay contributions in accordance with regulations 9 or 10 on any pay received, including statutory pay but that pay does not include any amount that reduces the member's actual pay on account of possible entitlement to statutory pay.

(2) If an active member is on ordinary maternity leave, paternity leave or ordinary adoption leave and is not entitled to receive pay (including statutory pay) for any period, that member is treated for the purposes of these Regulations as if that member had paid contributions under paragraph (1).

(3) If an active member is on child-related leave other than the leave mentioned in paragraph (2) and is not entitled to receive pay (including statutory pay) for any period, that member may make contributions during that period in accordance with regulations 9 or 10 as if that member were receiving adjusted pay as defined in paragraph (4).

(4) Adjusted pay is the pay the member was entitled to receive immediately before the unpaid period began (including statutory pay) but—

(a) not including any amount that reduces actual pay on account of the person's possible entitlement to statutory pay, and

(b) disregarding any amount the member receives on account of a day's work carried out under regulation 12A of the Maternity and Parental Leave etc Regulations 1999 or regulation 21A of the Paternity and Adoption Leave Regulations 2002 that exceeds any maternity, paternity or parental leave pay due for that day.

Contributions during reserve forces service leave

13.—(1) An active member on reserve forces service leave must pay contributions in accordance with regulations 9 or 10 that the member was paying immediately before the reserve forces service leave began if (and only if) the reserve forces pay during that period equals or exceeds the pay the member would have received if the former employment had continued.

(2) If an active member on reserve forces service leave is not required to pay contributions under paragraph (1), that member is treated for the purposes of these Regulations as if that member had paid contributions under paragraph (1).

Contributions during trade dispute absence

14.—(1) An active member away from work because of a trade dispute may make a contribution in accordance with regulations 9 or 10 in respect of the absence at the rate of 16% of the pay lost during that absence.

(2) A member's lost pay is the difference between the actual pay (if any) received and the pay that member would have received but for the absence, disregarding any guarantee payments under Part 3 of the Employment Rights Act 1996.

Contributions during absences with permission

15.—(1) An active member away from employment with permission (otherwise than because of illness or injury) for a continuous period of less than 31 days, or on jury service for any period, who receives reduced pay or no pay must make payments in accordance with regulations 9 or 10 on the pay that member would have received during that period but for the absence.

(2) An active member away from employment with permission (otherwise than because of illness or injury or jury service) for a continuous period of more than 30 days, who receives reduced pay or no pay, may make contributions in accordance with regulations 9 or 10 on the pay that member would have received but for the absence, during the period from 30 days after the absence began, up to a maximum of 36 months.

Additional regular contributions

16.—(1) An active member who is paying contributions under regulation 9 may enter into an arrangement to pay member-only additional regular contributions ("MARCs") or member and survivor additional regular contributions (MASARCs) in accordance with this regulation.

(2) The arrangements mentioned in paragraph (1)—

(a) must last for a complete year or number of years with a minimum period of one year;

(b) must specify the amount of extra contribution to be paid each scheme year;

(c) if they are in respect of MARCs, must specify the amount of additional member-only pension to be credited to the active member's pension account at the end of the scheme year;

(d) if they are in respect of MASARCs, must specify the amount of additional member and survivor pension to be credited to the active member's pension account at the end of the scheme year; and

(e) may be funded in whole or in part by the member's employing authority.

(3) The amount of additional pension that is to be credited to the active member's pension account shall not exceed £5,000 per year.

(4) The amount of the contributions to be paid in respect of arrangements under paragraph (1) is to be determined in accordance with actuarial guidance issued by the Secretary of State based on—

(a) the age of the member at the time the arrangements commence,

(b) the gender of the member, and

(c) whether the arrangements are in respect of MARCs or MASARCs.

(5) Actuarial guidance issued by the Secretary of State under paragraph (4) may be revised at any time and if so, from the 1st April following any such revision, contributions based on the revised actuarial guidance are payable.

(6) An application by an active member to make arrangements under paragraph (1) shall—

(a) be made in writing to the member's appropriate administering authority, and a copy sent to the member's employing authority if that member is not employed by the administering authority,

(b) state the length of the period, in whole years ending before the member's normal pension age, over which the member wishes to pay additional contributions,

(c) state whether the member wishes to make arrangements in respect of MARCs or MASARCs.

(7) An administering authority may require an active member to produce a report by a registered medical practitioner of the results of a medical examination, undertaken at the member's own expense, and may refuse an application to make arrangements under paragraph (1) if that authority is not satisfied that the member is in reasonably good health.

(8) Arrangements made under paragraph (1) continue until—

(a) the period entered into has expired,

(b) they are terminated by the member giving one month's written notice to the administering authority,

(c) the member begins to pay reduced contributions under regulation 10,

(d) the member becomes a deferred member,

(e) the member becomes a pensioner member, or

(f) the member dies.

(9) If arrangements entered into under paragraph (1) terminate for any reason and new arrangements are entered into under that paragraph, the amount of contributions payable is determined under paragraph (4) in accordance with the age of the member at the date the new arrangements are entered into and the actuarial guidance issued by the Secretary of State in force at that date.

(10) If additional contributions are paid in accordance with arrangements made under paragraph (1) that member's active member's pension account must be credited with the amount specified in those arrangements as additional member-only pension or member and survivor pension, as the case may be, at the end of the scheme year in which the contributions are paid.

(11) If a member is granted Tier 1 or Tier 2 benefits or dies before the end of the period of arrangements made under paragraph (1), that member is to be treated as having paid the contributions required from the date the member dies, or is granted Tier 1 or Tier 2 benefits up to the end of the period of the arrangements.

(12) If a member fails to pay all the additional contributions due under arrangements made under paragraph (1), and paragraph (11) does not apply to that member, the member's active member pension account must be credited with additional member-only pension or member and survivor pension, as the case may be, of an amount determined by the appropriate administering authority having regard to the amount of contributions the member paid and after taking actuarial advice.

Additional voluntary contributions

17.—(1) An active member may enter into an arrangement to pay additional voluntary contributions or to contribute to a shared cost additional voluntary contribution arrangement.

(2) The arrangements mentioned in paragraph (1) must be a money purchase pension scheme established under a contract between the appropriate administering authority and a body approved for the purposes under the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.

(3) Where a member pays contributions under paragraph (1) that member is entitled to additional benefits in accordance with one of the methods permissible under the Finance Act 2004.

(4) Where a member chooses to take some or all of the benefits referred to in paragraph (3) in the form of a lump sum, that sum forms part of the total amount referred to in regulation 33(2).

(5) To enter into an arrangement under paragraph (1) an active member must specify in a written notice given to the appropriate administering authority and a copy sent to the member's employing authority, if the member is not employed by the administering authority, the percentage of pensionable pay or the amount that the member wishes to contribute.

(6) A member may vary the amount specified, or cease contributing to an arrangement by service of a further written notice given to the member's employing authority.

(7) The amount that an active member may contribute to an arrangement under this regulation may not exceed 50% of the member's pensionable pay.

Rights to return of contributions

18.—(1) If a member's qualifying service in the Scheme determined under regulation 3(5) is for less than 2 years, that person is entitled, when that active membership ceases, to be repaid by the administering authority any contributions paid under regulations 9 or 10.

(2) A person entitled to repayment under paragraph (1) is also entitled to interest on the sum due if repayment is not made before the expiry of one year beginning with the date active membership ceased.

(3) Interest due under paragraph (2) is calculated at one per cent above base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.

(4) A person entitled to repayment under paragraph (1) may claim that entitlement so long as payment is requested during the period of one year beginning with the date the active membership in the employment ceased.

(5) The administering authority may deduct any tax or national insurance payable on any repayment under paragraph (1) and where any such deduction is made shall secure that the money withheld is used to discharge the tax or national insurance liability or is included in the contributions equivalent premium liability due under section 55 of the Pensions Schemes Act 1993.

Exclusion of rights to return of contributions

19.—(1) A person is not entitled to a return of contributions under regulation 18 if that person—

(a) becomes an active member of the Scheme again within one month and one day of leaving an employment, or before receiving the return of contributions, whichever is the later;

(b) left the employment because of —

(i) an offence of a fraudulent character, or

(ii) grave misconduct

in connection with the employment;

(c) benefits from a transfer payment to another pension fund;

(d) continues as an active member in another employment held concurrently in which that person has ceased to be an active member.

(2) Where paragraph (1)(b) applies the employing authority may direct payment out of the appropriate fund of a sum equal to all or part of the member's contributions to the member, the member's spouse, civil partner, nominated cohabiting partner or any of the member's dependents.

Meaning of pensionable pay

20.—(1) Subject to regulation 21, an employee's pensionable pay is the total of—

(a) all the salary, wages, fees and other payments paid to the employee, and

(b) any benefit specified in the employee's contract of employment as being a pensionable emolument.

(2) But an employee's pensionable pay does not include—

(a) any sum which has not had income tax liability determined on it;

(b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;

(c) any payment in consideration of loss of holidays;

(d) any payment in lieu of notice to terminate a contract of employment;

(e) any payment as an inducement not to terminate employment;

(f) any payment in consideration of loss of future pensionable payments or benefits;

(g) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees;

(h) any pay received during any time when the member is not entitled to accrue earned pension under regulation 11(6);

(i) returning officer, or acting returning officer fees other than fees paid in respect of—

(i) local government elections,

(ii) elections for the National Assembly for Wales,

(iii) Parliamentary elections, or

(iv) European Parliamentary elections.

Assumed pensionable pay

21.—(1) In the circumstances specified in paragraph (2) the pensionable pay that an active member is treated as receiving for the purposes of these regulations, other than regulations 9 to 15, is that member's assumed pensionable pay calculated in accordance with paragraphs (6) and (7).

(2) The circumstances are that the member—

(a) is on sick leave on reduced pay;

(b) is working reduced hours as a consequence of ill-health or infirmity of mind or body and has reduced pay as a consequence of that reduction in working hours;

(c) is on relevant child-related leave;

(d) is absent because of a trade dispute and has paid contributions as specified in regulation 14(1);

(e) is absent from duty because of being called out or recalled for permanent service in Her Majesty's armed forces pursuant to a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996 and has paid contributions if required to do so by regulation 13(1).

(3) A member qualifies under paragraph (2)(b) only if an IRMP certifies that the member was in part-time service wholly or partly as a consequence of ill-health or infirmity of mind or body.

(4) Relevant child-related leave for the purposes of paragraph 2(c) means any period during which the member is exercising the right to take—

(a) ordinary maternity or adoption leave;

(b) additional maternity or adoption leave under section 73 or 75B of the Employment Rights Act 1996;

(c) paternity leave; or

(d) additional paternity leave.

(5) Paragraph (2)(e) does not apply in respect of any period of service which qualifies the member for benefits under any other occupational pension scheme in respect of that service.

(6) Assumed pensionable pay for a scheme year is the higher of—

(a) the pensionable pay the member received in the previous scheme year relating to that year, grossed up to an annual figure if the member received pensionable pay for only part of that year; or

(b) the pensionable pay the member received in, and relating to, the 12 weeks preceding the date on which the circumstances specified in paragraph (2) which mean that the member is treated as receiving assumed pensionable pay began, grossed up to an annual figure.

(7) The assumed pensionable pay that a member is treated as receiving is adjusted by the revaluation adjustment at the end of each scheme year.

Pension accounts

Establishment of pension accounts

22.—(1) An administering authority must open and maintain one or more pension accounts for each member of the Scheme.

(2) A separate pension account must be opened in relation to each employment where a member is or was employed in two or more Scheme employments.

(3) A pension account—

(a) must contain such matters as are required by these Regulations;

(b) must identify which one of the following categories of pension account it is—

(i) an active member's pension account;

(ii) a deferred member's pension account;

(iii) a retirement pension account;

(iv) a flexible retirement pension account;

(v) a deferred pensioner member's account;

(vi) a pension credit account; or

(vii) a survivor member's account,

but, subject to that,

(c) may be kept in any form that the administering authority considers appropriate.

(4) An administering authority must close a pension account if a transfer value payment is made in respect of the member if the effect of the transfer is that the member is no longer entitled to any benefits from that account.

Active member pension accounts

23.—(1) At the beginning of each scheme year, an active member's pension account must specify the opening balance for that year.

(2) At the end of each scheme year—

(a) the balance mentioned in paragraph (1) must be adjusted by the revaluation adjustment applicable to that scheme year;

(b) the amount of earned pension for the scheme year must be added to the balance mentioned in sub-paragraph (a);

(c) the amount of any additional member pension acquired during the scheme year pursuant to arrangements made under regulation 16(1) must be added to the balance mentioned in sub-paragraph (b); and

(d) the sum resulting from any pension account adjustment must be added, or subtracted, as appropriate, to the balance mentioned in sub-paragraph (c).

(3) The balance calculated under paragraph (2) becomes the new opening balance for the following scheme year.

(4) Except where regulation 10 (temporary reduction in contributions) applies, the amount of earned pension for a scheme year is 1/49th of the member’s pensionable pay received in that year.

(5) Where regulation 10 (temporary reduction in contributions) applies, the amount of earned pension is 1/98th of the member’s pensionable pay received while that regulation applies.

(6) Other than to correct an error in a pension account, a pension account adjustment can only arise as a consequence of—

(a) an award of additional pension under regulation 31;

(b) a transfer value payment being made or received;

(c) a payment in respect of a pension debit being made.

Deferred member’s pension account

24.—(1) If a member ceases to be an active member and becomes a deferred member in relation to an employment—

(a) the active member’s pension account must be closed; and

(b) a deferred member’s pension account must be opened.

(2) The deferred member’s pension account must specify the opening balance in that account.

(3) On the day the account is opened, the opening balance is the amount of pension the member has accrued.

(4) The amount of pension a member has accrued is—

(a) the opening balance for the member’s last active scheme year; plus

(b) the amount of earned pension from the first day of the member’s last active scheme year until the last day of pensionable service; plus

(c) any additional pension acquired during that period pursuant to arrangements made under regulation 16(1); plus, or minus, as the case may be,

(d) any pension account adjustment applicable during that period.

(5) Other than to correct an error in a deferred member’s pension account, the only adjustment that can arise under paragraph (4)(d) is an adjustment as a consequence of a matter specified in regulation 23(6) above.

(6) Except where regulation 10 (temporary reduction in contributions) applied, the amount of earned pension for the period mentioned in paragraph (4)(b) is 1/49th of the pensionable pay received during that period.

(7) Where regulation 10 (temporary reduction in contributions) applied to any of the period mentioned in paragraph (4)(b), the amount of earned pension is 1/98th of the member’s pensionable pay received while that regulation applied.

(8) The opening balance in the member’s account is increased by the index rate adjustment on the last day of each scheme year.

(9) The balance calculated under paragraph (8) is the opening balance for the following scheme year.

Retirement pension accounts : active members

25.—(1) When an active member becomes entitled to immediate payment of a full retirement pension—

(a) the active member's pension account must be closed; and

(b) a retirement pension account must be opened.

(2) The retirement pension account must specify—

(a) the amount of accrued pension;

(b) the early payment reduction, or deferred payment enhancement (if any);

(c) the commutation amount (if any);

(d) the amount of pension payable and the date from which it is to be paid.

(3) Subject to paragraph (4), the amount of accrued pension for the purposes of paragraph (2)(a) is the amount that would have been specified under regulation 24(4) if a deferred member's pension account had been opened for that member.

(4) The commutation amount for the purposes of paragraph (2)(c) is the amount the member has elected to receive as a lump sum in accordance with regulation 33 and the amount of accrued pension specified in paragraph (2)(a) is reduced accordingly.

(5) For the purposes of this regulation a full retirement pension means a retirement pension other than a pension payable under regulation 30(4) (flexible retirement pensions).

Retirement pension accounts : deferred, deferred pensioner and credit members

26.—(1) When a deferred member becomes entitled to immediate payment of a retirement pension—

(a) the deferred member's pension account must be closed; and

(b) a retirement pension account must be opened.

(2) The retirement pension account must specify—

(a) the amount of accrued pension;

(b) the early payment reduction, or deferred payment enhancement (if any);

(c) the commutation amount (if any);

(d) the amount of pension payable and the date from which it is to be paid.

(3) A deferred member becomes entitled to immediate payment of a retirement pension for the purposes of paragraph (1)—

(a) on or after that member's 55th birthday; and

(b) from the date specified in a written notice given by the member to the appropriate administering authority informing it that the member wishes retirement pension to be paid.

(4) A notice given under paragraph (3)(b) must specify a date after the date on which the notice is given.

(5) Subject to paragraph (6), the amount of accrued pension for the purposes of paragraph (2)(a) is the amount specified in that member's deferred member's pension account immediately before it was closed.

(6) The commutation amount for the purposes of paragraph (2)(c) is the amount the member has elected to receive as a lump sum in accordance with regulation 33 and the amount of accrued pension specified in paragraph (2)(a) is reduced accordingly.

(7) This regulation applies in relation to deferred pensioner members who become entitled to immediate payment of a retirement pension as it applies to deferred members with the following modifications—

(a) all references to deferred members are to be read as references to deferred pensioner members; and

(b) paragraphs (2)(c) and (6) are omitted.

(8) This regulation applies in relation to credit members who become entitled to immediate payment of a retirement pension as it applies to deferred members with the following modifications—

(a) all references to deferred members are to be read as references to credit members; and

(b) the reference to accrued pension in paragraph (2)(a) is to be read as a reference to the amount of pension credit in the credit member's account.

Flexible retirement pension accounts

27.—(1) When an active member is entitled to immediate payment of a retirement pension under regulation 30(4) (flexible retirement pensions)—

(a) a flexible retirement pension account must be opened; and

(b) the balance in the active member's pension account must be reduced by the amount of accrued pension transferred into the member's flexible retirement account.

(2) The flexible retirement pension account must specify—

(a) the amount of accrued pension transferred from the active member's pension account;

(b) the early payment reduction, or deferred payment enhancement (if any);

(c) the commutation amount (if any);

(d) the amount of pension payable and the date from which it is to be paid.

(3) The commutation amount for the purposes of paragraph (2)(c) is the amount the member has elected to receive as a lump sum in accordance with regulation 33 and the amount of accrued pension specified in paragraph (2)(a) is reduced accordingly.

Deferred pensioner member accounts

28.—(1) When a pensioner member who has been in receipt of Tier 3 benefits has those benefits discontinued under regulation 37(3) or (6)(c)—

(a) the member's retirement pension account must be closed, and

(b) a deferred pensioner member account must be opened.

(2) The deferred pensioner member account must specify the amount of accrued pension transferred from the member's retirement pension account.

Pension credit accounts

29.—(1) When a person becomes a beneficiary of a pension sharing order, a pension credit member account must be opened.

(2) The pension credit account must specify the proportion of the capital value of the benefits in the account of the active member to which the pension sharing order relates that the pension credit member is entitled to receive.

Benefits

Retirement benefits

30.—(1) A member who attains normal pension age and ceases to be an employee in local government service is entitled to immediate payment of a retirement pension without reduction.

(2) A member who chooses to defer payment of a retirement pension to a date after that member's normal pension age is entitled to immediate payment of a retirement pension from any date after the member ceases to be an employee in local government service up to the date when that member attains the age of 75, enhanced by the amounts shown as appropriate in actuarial guidance issued by the Secretary of State.

(3) A member who has not attained normal pension age but who has attained the age of 55 or over, who is not an employee in local government service may choose to receive immediate payment of a retirement pension reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.

(4) A member who has attained the age of 55 or over who reduces working hours or grade of employment may, with the employing authority's consent, choose to receive immediate payment of part of the retirement pension to which that member would be entitled if that member were not an employee in local government service on the date the request is made, adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.

(5) Where a member who has attained the age of 55 or over is dismissed by reason of redundancy or business efficiency, that member is entitled to immediate payment of a retirement pension without reduction.

(6) An employing authority may agree to waive in whole or in part any reduction that would, apart from this paragraph, be required by paragraphs (3) or (4).

(7) In these regulations "normal pension age" means the pensionable age of a person as specified from time to time in Schedule 4 to the Pensions Act 1995, or if higher, age 65.

Award of additional pension

31.—(1) An employing authority may resolve to award—

(a) an active member, or

(b) a member who was an active member who was dismissed by reason of redundancy, or business efficiency,

additional pension of, in total, not more than £5,000 a year payable from the same date as any pension payable under other provisions of these Regulations, provided that the case of a member falling within sub-paragraph (b), the award is made within 6 months of the date the member's employment ended.

(2) The restrictions specified in paragraph (1) apply to employing authorities which have power under section 1 of the Localism Act 2011 (local authority's general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004 (powers of fire and rescue authorities) in the exercise of those powers.

(3) An employing authority making an award under this regulation must pay a sum into the appropriate fund to meet the cost of the additional pension, in accordance with actuarial guidance issued by the Secretary of State.

Commencement of pensions

32.—(1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable, begins with the day after the date on which the employment ends.

(2) In the case of a member who leaves local government service and is not entitled to immediate payment of retirement pension, the first period for which payment begins is the member's normal pension age unless that member gives written notice to the administering authority to defer payment (but any such deferral shall not extend beyond the day before the member's 75th birthday).

(3) Where a member elects under regulation 30(2) or (3) to have a pension paid from a date other than normal retirement age, the first period for which retirement pension is payable begins on the date the member specifies in a written notice to the appropriate administering authority.

(4) A notice given under paragraph (3) must be given not less than three months before the beginning of the period specified.

(5) A member may give a further notice under paragraph (3) altering the date specified in an earlier notice, but any such further notice must be given not less than three months before the beginning of the period specified in the further notice.

(6) Where a member is entitled to early payment of pension due to ill-health under regulation 35 the first period for which retirement pension is payable is the day after the date on which the member's employment is terminated.

(7) Where a member is entitled to early payment of pension due to ill-health under regulation 38, the first period for which retirement pension is payable begins on the date the member became permanently incapable as determined under that regulation.

(8) The first period for which any survivor pension is payable following the death of a member begins with the day after the date on which the member dies.

Election for lump sum instead of pension

33.—(1) A member entitled to a retirement pension under the Scheme may by written notice given to the appropriate administering authority before any benefits in relation to the benefit crystallisation event become payable, commute the retirement pension payable, or part thereof, at a rate of £12 for every £1 of annual pension commuted.

(2) But the total amount of the member's commuted sum, including any sum received as benefits provided in the form of a lump sum under any other local government pension provision, shall not exceed 25% of the capital value of the member's accrued rights under all local government pension provision.

(3) The capital value of a member's accrued rights shall be calculated in accordance with actuarial guidance issued by the Secretary of State.

Commutation and small pensions

34.—(1) Any authorised payments within the meaning of section 164 (authorised member payments) of the Finance Act 2004 listed in sub-paragraphs (a) to (c) may be paid in accordance with the rules relating to the payment of such benefits under that Act or relevant regulations under that Act—

(a) a lump sum which is a trivial commutation lump sum within the meaning of section 166 (lump sum rule) of that Act;

(b) a trivial commutation lump sum death benefit within the meaning of section 168 (lump sum death benefit rule) of that Act; or

(c) a commutation payment under regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009.

(2) Any payment under paragraph (1) shall be calculated in accordance with actuarial guidance issued by the Secretary of State.

(3) If a member receives a payment under this regulation, any pension account relating to that payment must be closed and the member is entitled to no further benefits in relation to that payment.

Ill-health retirement

Early payment of retirement pension on ill-health grounds: active members

35.—(1) An active member whose employment is terminated by an employing authority on the grounds of ill-health or infirmity of mind or body before that member reaches normal pension age, is entitled to early payment of a retirement pension if that member satisfies the conditions in paragraphs (3) and (4) of this regulation.

(2) The amount of the retirement pension that a member who satisfies the conditions mentioned in paragraph (1) receives is determined by which of the benefit tiers specified in paragraphs (5) to (7) that member qualifies for, calculated in accordance with regulation 39.

(3) The first condition is that the member is, as a result of ill-health or infirmity of mind or body, permanently incapable of discharging efficiently the duties of the employment the member was engaged in.

(4) The second condition is that the member, as a result of ill-health or infirmity of mind or body, has a reduced likelihood of undertaking gainful employment before normal pension age.

(5) If the member has a reduced likelihood of being capable of undertaking any gainful employment before normal pension age, that member is entitled to Tier 1 benefits.

(6) If the member—

(a) is not entitled to Tier 1 benefits;

(b) has a reduced likelihood of being capable of undertaking gainful employment within three years of leaving the employment; but

(c) is likely to be able to undertake gainful employment before reaching normal pension age,

that member is entitled to Tier 2 benefits.

(7) Subject to regulation 37, if the member is likely to be capable of undertaking gainful employment within three years of leaving the employment, or normal pension age if earlier, that member is entitled to Tier 3 benefits for so long as the member is not in gainful employment, up to a maximum of three years from the date the member left the employment.

Role of the IRMP

36.—(1) A decision as to whether a member is entitled under regulation 35 to early payment of retirement pension on grounds of ill-health or infirmity of mind or body, and if so which tier of benefits the member qualifies for, shall be made by the member's employing authority after that authority has obtained a certificate from an IRMP as to—

(a) whether the member satisfies the conditions in regulation 35(3) and (4); and if so,

(b) how long the reduced likelihood that the member will be capable of undertaking gainful employment will endure.

(2) An IRMP from whom a certificate is obtained under paragraph (1) must not have previously advised, or given an opinion on, or otherwise been involved in the particular case for which the certificate has been requested.

(3) If the employing authority is not the member's appropriate administering authority, it must first obtain that authority's approval to its choice of IRMP.

(4) The employing authority and IRMP must have regard to guidance given by the Secretary of State when carrying out their functions under this regulation and regulations 37 and 38.

Special provision in respect of members receiving Tier 3 benefits

37.—(1) A member in receipt of Tier 3 benefits who attains normal pension age continues to be entitled to receive retirement pension and ceases to be regarded as being in receipt of Tier 3 benefits from that date, and nothing in the remainder of this regulation applies to such a person.

(2) A member who receives Tier 3 benefits shall inform the former employing authority upon starting any employment while those benefits are in payment and shall answer any reasonable inquiries made by the authority about employment status including as to pay and hours worked.

(3) Payment of Tier 3 benefits shall cease if a member starts gainful employment, or fails to answer inquiries made by the authority under paragraph (2), and the authority may recover any payment made in respect of any period before discontinuance during which the member was in gainful employment.

(4) An authority must review payment of Tier 3 benefits after they have been in payment for 18 months,

(5) An authority carrying out a review under paragraph (4) must make a decision under paragraph (6) about the member's entitlement after obtaining a further certificate from an IRMP as to whether, and if so when, the member will be likely to be capable of undertaking gainful employment.

(6) The decisions available to an authority reviewing payment of Tier 3 benefits to a member under paragraph (4) are as follows:

(a) to continue payment of Tier 3 benefits for any period up to the maximum permitted by regulation 35(7);

(b) to award Tier 2 benefits to the member from the date of the review decision if the authority is satisfied that the member has a reduced likelihood of being capable of undertaking gainful employment before normal pension age; or

(c) to cease payment of benefits to the member.

(7) A member whose Tier 3 benefits are discontinued under paragraph (3) or (6)(c) is a deferred pensioner member from the date benefits are discontinued and shall not be entitled to any Tier 3 benefits in the future.

(8) An employing authority which determines that it is appropriate to discontinue payment of Tier 3 benefits for any reason shall notify the appropriate administering authority of the determination.

(9) An authority may, following a request from a member in receipt of Tier 3 benefits or within 3 years after payment of Tier 3 benefits to a member are discontinued, make a determination to award Tier 2 benefits to that member from the date of the determination, if the authority is satisfied after obtaining a further certificate from an IRMP, that the member has a reduced likelihood of being capable of undertaking gainful employment before normal pension age.

(10) The IRMP who provides a further certificate under paragraphs (5) or (9) may be the same IRMP who provided the first certificate under regulation 36(1).

Early payment of retirement pension on ill-health grounds: deferred and deferred pensioner members

38.—(1) A deferred member who, because of ill-health or infirmity of mind or body—

(a) becomes permanently incapable of discharging efficiently the duties of the employment that member was engaged in at the date the member became a deferred member, and

(b) has a reduced likelihood of being capable of undertaking any gainful employment before normal pension age, or for at least three years, whichever is the sooner,

may ask to receive payment of a retirement pension whatever the member's age.

(2) A request under paragraph (1) must be made in writing to the deferred member's former employing authority or appropriate administering authority where the member's former employing authority has ceased to be a Scheme employer.

(3) Before determining whether to agree to a request under paragraph (1), the deferred member's former employing authority, or administering authority, as the case may be, must obtain a certificate from an IRMP as to whether the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of the employment the member was engaged in because of ill-health or infirmity of mind or body, and if so, whether as a result of that condition the member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age, or for at least three years, whichever is the sooner.

(4) A deferred pensioner member who, because of ill-health or infirmity of mind or body, has a reduced likelihood of undertaking any gainful employment before normal pension age, may ask to receive payment of a retirement pension, whatever the member's age.

(5) A request under paragraph (4) must be made to the deferred pensioner member's former employing authority, or appropriate administering authority where the member's former employing authority has ceased to be a Scheme employer.

(6) Before determining whether to agree to a request under paragraph (4), the deferred pensioner member's former employing authority, or administering authority, as the case may be, must obtain a certificate from an IRMP as to whether the member has, as a result of ill-health or infirmity of mind or body, a reduced likelihood of being capable of undertaking any gainful employment before normal pension age.

(7) If the employing authority is not the deferred or deferred pensioner member's appropriate administering authority, it must obtain that authority's consent to the appointment of an IRMP under this regulation.

(8) An IRMP appointed under paragraph (6) of this regulation may be the same IRMP who provided the first certificate under regulation 36(1).

Calculation of ill-health pension amounts

39.—(1) Tier 1 benefits are calculated by adjusting the active member's pension account in accordance with paragraph (2).

(2) (a) An amount is added to the opening balance in the account for the year in which the member's employment was terminated, equivalent to the amount of earned pension the member would have accrued in the last active scheme year if that member had been treated as receiving assumed pensionable pay under regulation 21 and for each year up to the member's normal pension age.

(b) Retirement pension is payable to the member as if the member had reached normal pension age on the date the member's employment was terminated.

(3) Tier 2 benefits are calculated by adjusting the active member's pension account as follows—

(a) An amount is added to the opening balance in the account for the year in which the member's employment was terminated, equivalent to—

(i) the earned pension accrued during that year up to the date the member's employment was terminated, and

(ii) a quarter of the amount of earned pension in the member's last active scheme year, that the member would have accrued if that member had been treated as receiving assumed pensionable pay under regulation 21, and for each year up to the member's normal pension age.

(b) Retirement pension is payable to the member as if the member had reached normal pension age on the date the member's employment was terminated.

(4) Tier 3 benefits are the retirement pension that would be payable to the member if that member had reached normal pension age on the date the member's employment was terminated.

(5) Benefits payable under regulation 38 are the retirement pension that would be payable to the member if that member had reached normal pension age on the date from which benefits are awarded.

Survivor benefits

Death grants: active members

40.—(1) If an active member dies before attaining the age of 75, an administering authority shall pay a death grant.

(2) The appropriate administering authority may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.

(3) The death grant is three times the member's assumed pensionable pay calculated in accordance with regulation 21.

(4) If the administering authority has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years beginning with the member's death, they must pay an amount equal to the shortfall to the member's personal representatives.

Survivor benefits: partners of active members

41.—(1) If an active member dies leaving a surviving spouse, civil partner or nominated cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The relevant administering authority shall close the active member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the amounts in sub-paragraphs (a) to (c)—

(a) the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) that earned pension had accrued at a rate of 1/160th of pensionable earnings, and,

(iii) the earned pension that would have accrued under paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each scheme year;

(b) a sum equivalent to 1/160th of the annual pensionable earnings the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal pension age;

(c) the additional member and survivor pension in the active member's account.

(5) Where an IRMP certifies that the member was, at the date of death, in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in accrual of pension as is attributable to that condition.

(6) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each scheme year.

(7) The sum calculated under paragraph (6) is the opening balance of the survivor member's pension account for the following scheme year.

(8) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1) and a survivor member's pension account shall be opened for each of them.

Survivor benefits : children of active members

42.—(1) If an active member dies leaving one or more eligible children, they are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) If a pension is payable to a partner of an active member under regulation 41(1), the relevant administering authority shall open a survivor member's pension account for each eligible child from the day following the member's death.

(3) The opening balance of a survivor member's pension account opened under paragraph (2) is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (4).

(4) The amount of pension payable under paragraph (3) where there is only one such child is calculated by adding together the amounts in sub-paragraphs (a) to (c),

(a) the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/320th of pensionable earnings, and,

(iii) the earned pension that would have accrued under sub-paragraph (bb) had been revalued by the revaluation adjustment rate at the end of each scheme year;

(b) a sum equivalent to 1/320th of the annual pensionable earnings the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal pension age;

(c) the additional member and survivor pension in the active member's account.

(5) The amount of pension payable under paragraph (3) where there is more than one such child, is calculated by adding together the amounts in sub-paragraphs (a) to (c), and is payable to those children in equal shares—

(a) the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/160th of pensionable earnings, and,

(iii) the earned pension that would have accrued under sub-paragraph (bb) had been revalued by the revaluation adjustment rate at the end of each scheme year;

(b) a sum equivalent to 1/160th of the annual pensionable earnings the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal pension age;

(c) the additional member and survivor pension in the active member's account.

(6) If no pension is payable to a partner of an active member under regulation 41(1), the relevant administering authority shall close the active member's pension account and shall open a survivor member's pension account for each eligible child from the day following the member's death.

(7) The opening balance of a survivor member's pension account opened under paragraph (6) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (8).

(8) The amount of pension payable under paragraph (7) where there is only one such child is calculated by adding together the amounts in paragraphs (a) to (c),

(a) the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/240th of pensionable earnings, and,

(iii) the earned pension that would have accrued under sub-paragraph (bb) had been revalued by the revaluation adjustment rate at the end of each scheme year;

(b) a sum equivalent to 1/240th of the annual pensionable earnings the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal pension age;

(c) the additional member and survivor pension in the active member's account.

(9) The amount of pension payable under paragraph (6) where there is more than one such child, is calculated by adding together the amounts in paragraphs (a) to (c), and is payable to those children in equal shares—

(a) the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/120th of pensionable earnings, and,

(iii) the earned pension that would have accrued under sub-paragraph (bb) had been revalued by the revaluation adjustment rate at the end of each scheme year;

(b) a sum equivalent to 1/120th of the annual pensionable earnings the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal pension age;

(c) the additional member and survivor pension in the active member's account.

(10) Where an IRMP certifies that the member was, at the date of death, in part time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in accrual of pension as is attributable to that condition.

(11) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each scheme year.

(12) The sum calculated under paragraph (11) is the opening balance of the survivor member's pension account for the following scheme year.

Death grants: deferred members

43.—(1) If a deferred member dies an administering authority shall pay a death grant.

(2) The appropriate administering authority may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.

(3) The death grant is—

(a) the amount the member would have been entitled to receive as retirement pension annually if the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction, plus

(b) any additional member and survivor pension,

multiplied by 5.

(4) If the administering authority has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years beginning with the member's death, they must pay an amount equal to the shortfall to the member's personal representatives.

(5) Where the member had attained the age of 75 at the date of death, the appropriate administering authority is responsible for deducting from the death grant any tax chargeable under section 206 of the Finance Act 2004.

(6) This regulation applies to deferred pensioner members as it applies to deferred members except that the amount of death grant calculated under paragraph (3) is reduced by the amount of pension already paid to the member under regulation 35(7) and any lump sum paid under regulation 33.

Survivor benefits: partners of deferred members

44.—(1) If a deferred member dies leaving a surviving spouse, civil partner or nominated cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The relevant administering authority shall close the deferred member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the pension that the member would have been entitled to draw if—

(a) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(b) the member's earned pension had accrued at a rate of 1/160th of pensionable earnings,

(c) the earned pension that would have accrued under sub-paragraph (b) had been revalued by the revaluation adjustment rate at the end of each scheme year, and

any additional member and survivor pension that the deferred member had accrued were added to that figure.

(5) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each scheme year.

(6) The sum calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following scheme year.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1) and a survivor member's pension account shall be opened for each of them.

(8) This regulation applies to deferred pensioner members as it applies to deferred members with all references to deferred members to be read as references to deferred pensioner members.

Survivor benefits: children of deferred members

45.—(1) If a deferred member dies leaving one or more eligible children, they are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) If a pension is payable to a partner of a deferred member under regulation 44(1), the relevant administering authority shall open a survivor member's pension account for each eligible child from the following the member's death.

(3) The opening balance of a survivor member's pension account opened under paragraph (2) is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (4).

(4) (a) The amount of pension payable under paragraph (3) where there is only one such child is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/320th of pensionable earnings,

(iii) the earned pension that would have accrued under paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each scheme year, and

the additional member and survivor pension that the deferred member had accrued were added to that figure;

(b) The amount of pension payable under paragraph (3) where there is more than one such child, is payable to those children in equal shares and is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/160th of pensionable earnings,

(iii) the earned pension that would have accrued under sub-paragraph (bb) had been revalued by the revaluation adjustment rate at the end of each scheme year, and the additional member and survivor pension that the deferred member had accrued were added to that figure.

(5) If no pension is payable to a partner of a deferred member under regulation 44(1), the relevant administering authority shall close the deferred member's pension account and shall open a survivor member's pension account for each eligible child from the day following the member's death.

(6) The opening balance of a survivor member's pension account opened under paragraph (5) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (7).

(7) (a) The amount of pension payable under paragraph (6) where there is only one such child is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/240th of pensionable earnings,

(iii) the earned pension that would have accrued under paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each scheme year, and

the additional member and survivor pension that the deferred member had accrued were added to that figure.

(b) The amount of pension payable under paragraph (6) where there is more than one such child, is payable to those children in equal shares and is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction,

(ii) the member's earned pension had accrued at a rate of 1/120th of pensionable earnings,

(iii) the earned pension that would have accrued under paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each scheme year, and

the additional member and survivor pension that the deferred member had accrued were added to that figure.

(8) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each scheme year.

(9) The sum calculated under paragraph (8) is the opening balance of the survivor member's pension account for the following scheme year.

(10) This regulation applies to deferred pensioner members as it applies to deferred members.

Death grants : pensioner members

46.—(1) If a pensioner member dies before attaining the age of 75 an administering authority shall pay a death grant.

(2) The appropriate administering authority may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.

(3) The death grant is 10 times the annual amount the member was receiving as retirement pension at the date of death, ignoring—

(i) any abatement applied because the member had entered any new employment, and

(ii) any element of the retirement pension received which derived from MARCs,

but the amount so calculated is reduced by—

(iii) the amounts of any retirement pension paid to the member, or that would have been paid had the member's pension not at any time been abated because of entry of the member into new employment, ignoring any retirement pension paid to the member which derived from MARCs.

(4) If the administering authority has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years beginning with the member's death, they must pay an amount equal to the shortfall to the member's personal representatives.

Survivor benefits : partners of pensioner members

47.—(1) If a pensioner member dies leaving a surviving spouse, civil partner or nominated cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The relevant administering authority shall close the pensioner member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the earned pension that the member would have been entitled to draw if—

(a) the member's earned pension had accrued at a rate of 1/160th of pensionable earnings, and,

(b) the earned pension that would have accrued under sub-paragraph (a) had been revalued by the revaluation adjustment rate at the end of each scheme year until the pension started to be paid, and,

(c) the pension that would have been paid if sub-paragraphs (a) and (b) applied had been increased by the index rate adjustment at the end of each scheme year until the member died.

(5) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each scheme year.

(6) The sum calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following scheme year.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1) and a survivor member's pension account shall be opened for each of them.

Survivor benefits: children of pensioner members

48.—(1) If a pensioner member dies leaving one or more eligible children, they are entitled to a children's pension which shall come into payment on the day following death.

(2) If a pension is payable to a partner of a pensioner member under regulation 47(1), the relevant administering authority shall open a survivor member's pension account for each eligible child from the following the member's death.

(3) The opening balance of a survivor member's pension account opened under paragraph (2) is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (4).

(4) (a) The amount of pension payable under paragraph (3) where there is only one such child is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the member's earned pension had accrued at a rate of 1/320th of pensionable earnings,

(ii) the earned pension that would have accrued under paragraph (i) had been revalued by the revaluation adjustment rate at the end of each scheme year until the pension started in payment, and,

(iii) the pension that would have been payable if paragraphs (i) and (ii) applied had been increased by the index rate adjustment at the end of each scheme year until the member died.

(b) The amount of pension payable under paragraph (3) where there is more than one such child, is payable to those children in equal shares and is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the member's earned pension had accrued at a rate of 1/160th of pensionable earnings,

(ii) the earned pension that would have accrued under paragraph (i) had been revalued by the revaluation adjustment rate at the end of each scheme year until the pension started in payment, and,

(iii) the pension that would have been payable if paragraphs (i) and (ii) applied had been increased by the index rate adjustment at the end of each scheme year until the member died.

(5) If no pension is payable to a partner of a deferred member under regulation 47(1), the relevant administering authority shall close the pensioner member's pension account and shall open a survivor member's pension account for each eligible child from the day following the member's death.

(6) The opening balance of a survivor member's pension account opened under paragraph (5) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (7).

(7) (a) The amount of pension payable under paragraph (6) where there is only one such child is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the member's earned pension had accrued at a rate of 1/240th of pensionable earnings,

(ii) the earned pension that would have accrued under paragraph (i) had been revalued by the revaluation adjustment rate at the end of each scheme year until the pension started in payment, and,

(iii) the pension that would have been payable if paragraphs (i) and (ii) applied had been increased by the index rate adjustment at the end of each scheme year until the member died.

(b) The amount of pension payable under paragraph (6) where there is more than one such child, is payable to those children in equal shares and is calculated by adding together the earned pension that the member would have been entitled to draw if—

(i) the member's earned pension had accrued at a rate of 1/120th of pensionable earnings,

(ii) the earned pension that would have accrued under paragraph (i) had been revalued by the revaluation adjustment rate at the end of each scheme year until the pension started in payment, and,

(iii) the pension that would have been payable if paragraphs (i) and (ii) applied had been increased by the index rate adjustment at the end of each scheme year until the member died.

(8) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each scheme year.

(9) The sum calculated under paragraph (8) is the opening balance of the survivor member's pension account for the following scheme year.

PART 2

Administration

Interest on late payment of certain benefits

49.—(1) Where all or part of a pension or lump sum payment due under these regulations is not paid within the relevant period after the due date, an administering authority must pay interest on the unpaid amount to the person to whom it is payable.

(2) The relevant period is—

(a) in the case of a survivor pension, the period ending one month after the date on which the administering authority receives notification of the member's death;

(b) in the case of any other pension, one year;

(c) otherwise, one month.

(3) The due date is—

(a) in the case of a pension, the date on which it becomes payable;

(b) in the case of a lump sum under regulation 33 the benefit crystallisation date;

(c) in the case of a death grant, the date on which the member dies or, where notification of death is received more than two years after the date of death, the date of notification;

(d) in the case of a lump sum under regulation 34 the date of the commutation election or, if later, the nominated date within the meaning of paragraph 7(3) of Part 1 of Schedule 29 to the Finance Act 2004.

(4) Interest payable under this regulation is calculated at one per cent above base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.

Payments due in respect of deceased persons

50.—(1) Paragraph (2) applies if, when a person dies, the total amount due to that person's personal representatives under the Scheme (including anything due at that person's death) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965 and applying in relation to that person's death.

(2) An administering authority may pay the whole or part of the amount due from its pension fund to—

(a) a person's personal representatives, or

(b) any person or persons appearing to the authority to be beneficially entitled to the estate,

without the production of probate or letters of administration of the person's estate.

(3) Such a payment discharges that authority from accounting for the amount paid.

Payments for persons incapable of managing their affairs

51.—(1) If it appears to an administering authority that a person other than an eligible child is entitled to payment of benefits under the Scheme but is, by reason of mental disorder or otherwise, incapable of managing his or her affairs—

(a) the authority may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the authority may determine, to be applied for the benefit of the person entitled; and

(b) in so far as the authority does not pay the benefits in that manner, the authority may apply them in such manner as the authority may determine, for the benefit of the person entitled, or any beneficiaries of the person entitled.

Non-assignability

52.—(1) Every benefit to which a person is entitled under the Scheme is payable to or in trust for that person.

(2) No such benefit is assignable or chargeable with that person's, or any other person's, debts or other liabilities.

(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order under section 310 or 310A of the Insolvency Act 1986

Pension debits

53.—(1) Administering authorities shall have regard to actuarial guidance issued by the Secretary of State as to reduction of benefits payable under these Regulations in consequence of a pension debit created under section 29 of the Welfare Reform and Pension Act 1999.

(2) An administering authority shall make such adjustments to a member's pension accounts as are required to give effect to a pension debit.

No double entitlement

54.—(1) Where apart from this regulation any member would be entitled to a pension or lump sum under two or more regulations by reason of the same period of membership—

(a) that member shall be entitled to benefits under only one regulation;

(b) the member may choose under which provision benefits are to be paid; and

(c) if the member does not choose, the administering authority shall notify the member in writing of the provision under which benefits are to be paid.

(2) A member's choice must be by notice in writing given to the administering authority before the expiry of three months beginning with the day on which the member becomes entitled to choose under which provision the pension or retirement grant is to be paid.

(3) Paragraph (1) does not affect the member's rights under the Pension Schemes Act 1993.

Limit on total amount of benefits

55.—(1) No person is entitled under any provision of these Regulations to receive benefits the capital value of which exceed that person's lifetime allowance, except in accordance with actuarial guidance issued by the Secretary of State and any benefits to which a person is entitled are capped accordingly.

(2) In this regulation "lifetime allowance" is to be construed in accordance with section 218 of and Schedule 36 to the Finance Act 2004 and, where applicable, is to include primary protection, enhanced protection or fixed protection within the meaning of those provisions.

(3) The capital value of a person's benefits shall be calculated in accordance with actuarial guidance issued by the Secretary of State.

(4) The appropriate administering authority is responsible for deducting from any payment of benefits under the Scheme any tax to which they may become chargeable under the Finance Act 2004.

Signed by authority of the Secretary of State for Communities and Local Government

Parliamentary Under Secretary of State
Department for Communities and Local Government

SCHEDULES

SCHEDULE 1

Regulation 2

Interpretation

“absence from work with permission” means

“active member” means a person who is in an employment and paying contributions to the Scheme

“actuarial guidance issued by the Secretary of State” means

“additional maternity or adoption leave” means

“additional paternity leave” means

“additional pension” means

“additional voluntary contributions” means

“administering authority” means

“admission agreement” means

“admission body” means

“amount of accrued pension” means

“amount of pension payable” means

“annual pensionable pay” means

“assumed pensionable pay” means

“auto-enrolment date” means

“auto-re-enrolment date” means

“base rate” means

“benefit crystallisation event” means

“capital value of accrued rights” means

“child-related leave” means

“commutation amount” means

“contribution rate” means

“date of commutation” means

“death grant” means

“deferred member” means

“deferred payment enhancement” means

“deferred pensioner member” means

“dependent” means

“early payment of retirement pension” means

“early payment reduction” means

“earned pension” means

“eligible child” means

“employing authority’s consent” includes

“full retirement pension” means
“gainful employment” means
“ill health or infirmity of mind or body” means
“immediate payment of a retirement pension” means
“incapable of discharging efficiently the duties of the employment” means
“index rate adjustment” means
“interest” means
“IRMP” means
“lifetime allowance” means
“local government elections” means
“local government service” means
“membership” means
“money purchase pension scheme” means
“normal pension age” means
“nominated co-habiting partner” means
“occupational pension scheme” means
“opening balance” means
“ordinary adoption leave” means
“ordinary maternity leave” means
“payment period” means
“parental leave pay” means
“paternity leave” means
“pensionable pay” means
“pension account” means
“pension account adjustment” means
“pension debit” means
“pension credit” means
“pension credit member” means
“pensioner member” means
“pensions board” means
“pension sharing order” means
“permanently incapable” means
“provides a public service” means
“public service pension scheme” means
“qualifying service” means
“reduced likelihood of being capable of undertaking gainful employment” means
“reserve forces service leave” means
“retirement pension” means
“revaluation adjustment” means
“the Scheme” means
“Scheme year” means
“scheme manager” means
“sick leave” means

“statutory pay” means

“survivor member” means

“Tier 1 benefits” means

“Tier 2 benefits” means

“Tier 3 benefits” means

“trade dispute” means

“transfer value payment” means

SCHEDULE 2

Regulation 3

Scheme employers

PART 1

1. In England, a county council, a district council, a London borough council, the Greater London Authority or the Common Council of the City of London.

2. In Wales, a county council or a county borough council.

3. A joint board, body or committee appointed under any Act or statutory order or statutory scheme, of which all the constituent authorities are councils of a description in paragraph 1 or 2 or a combination of such councils.

4. A Mayoral development corporation within the meaning of section 198 of the Localism Act 2011.

5. A fire and rescue authority within the meaning of the Fire and Rescue Services Act 2004.

6. A police and crime commissioner.

7. A chief constable within the meaning of section 2 of the Police Reform and Social Responsibility Act 2011

8. The Commission for Local Administration in England.

9. A probation trust established under section 5 of the Offender Management Act 2007 or a National Probation Service local board.

10. The Chichester Harbour Conservancy.

11. The Lee Valley Regional Park Authority.

12. An integrated transport authority within the meaning of the Local Transport Act 2008.

13. The Broads Authority.

14. A further education corporation, a sixth form college corporation or a higher education corporation within the meaning of section 90 of the Further and Higher Education Act 1992.

15. The London Pensions Fund Authority.

16. The South Yorkshire Pensions Authority.

17. The Environment Agency.

18. A National Park Authority established under Part 3 of the Environment Act 1995.

19. An Education Action Forum within the meaning of section 11 of the School Standards and Framework Act 1998.

20. A person who has entered into Academy arrangements with the Secretary of State under section 1 of the Academies Act 2010.

21. A body set up by a local housing authority as a housing management company to exercise management functions of the authority under an agreement approved by the appropriate minister under section 27 of the Housing Act 1985.

22. The Valuation Tribunal Service established under section 105 of the Local Government Act 2003 and the Valuation Tribunal for Wales established under regulation 4 of the Valuation Tribunal for Wales Regulations 2010.

23. A conservation board established under section 86 of the Countryside and Rights of Way Act 2000.

PART 2

1. The Board of Governors of the Museum of London.

2. A body (other than a body listed in Part 1 of this Schedule) which is—

(a) a precepting authority within the meaning of section 69 of the Local Government Finance Act 1992 (interpretation)),

(b) a levying body within the meaning of section 74 of the Local Government Finance Act 1988 (levies), or

(c) a body to which section 75 of that Act (special levies) applies.

3. A passenger transport executive.

4. An institution designated by an order under section 129 of the Education Reform Act 1988.

5. An entity connected with a local authority listed in paragraphs 1 to 5 of Part 1 of this Schedule where “connected with” has the same meaning as in section 212(6) of the Local Government and Public Involvement in Health Act 2007.

6. A company under the control of a body listed in paragraphs 6 to 23 of Part 1 of this Schedule where “under the control” has the same meaning as in section 68 or, as the case may be, 73 of the Local Government and Housing Act 1989 (except that any direction given by the Secretary of State must be disregarded, and any references to a local authority treated as references to such a body).

7. The Public Services Ombudsman for Wales.

8. The Serious Organised Crime Agency.

9. Transport for London.

10. The London Transport Users’ Committee.

11. The Cultural Strategy Group for London.

12. The Children and Family Court Advisory and Support Service.

13. An urban development corporation.

PART 3

1. The following bodies are admission bodies—

(a) a body which provides a public service in the United Kingdom which operates otherwise than for the purposes of gain and has sufficient links with a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest (whether because the operations of the body are dependent on the operations of the Scheme employer or otherwise).

(b) a body, to the funds of which a Scheme employer contributes;

(c) a body representative of any Scheme employers or employees of Scheme employers;

(d) a body that is providing or will provide a service or assets in connection with the exercise of a function of a Scheme employer as a result of—

  (i) the transfer of the service or assets by means of a contract or other arrangement,

  (ii) a direction made under section 15 of the Local Government Act 1999 (Secretary of State's powers),

  (iii) directions made under section 497A of the Education Act 1996;

(e) a body which provides a public service. in the United Kingdom and is approved by the Secretary of State for the purpose of admission to the Scheme.

2. An approval under paragraph 1(e) may be subject to such conditions as the Secretary of State thinks fit and the Secretary of State may withdraw an approval at any time if such conditions are not met.

3. The Scheme employer, if it is not also the administering authority, must be a party to the admission agreement with a body falling within the description in paragraph 1(d).

4. In the case of an admission body falling within the description in paragraph 1(b), where at the date of the admission agreement the contributions paid to the body by one or more Scheme employers equal in total 50% or less than the total amount it receives from all sources, the Scheme employer paying contributions (or, if more than one pays contributions, all of them) must guarantee the liability of the body to pay all amounts due from it under these Regulations.

5. If the admission body is exercising the functions of the Scheme employer in connection with more than one contract or other arrangement under paragraph 1(d)(i), the administering authority and the admission body shall enter into a separate admission agreement in respect of each contract or arrangement.

6. An admission agreement must require the admission body to carry out, to the satisfaction of the administering authority, an assessment, taking account of actuarial advice, of the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, winding up, or liquidation of the admission body.

7. Notwithstanding paragraph 6, the admission agreement must further provide that where the level of risk identified by the assessment is such as to require it, the admission body shall enter into an indemnity or bond in an approved form with—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits or to effect and carry out contracts of general insurance;

(b) an EEA firm of the kind mentioned in paragraph 5(b) and (d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or to effect and carry out contracts of general insurance; or

(c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.

8. Where, for any reason, it is not desirable for an admission body to enter into an indemnity or bond, the admission agreement must provide that the admission body secures a guarantee in a form satisfactory to the administering authority from—

(a) a person who funds the admission body in whole or in part;

(b) in the case of an admission body falling within the description in paragraph 1(d), the Scheme employer referred to in that paragraph;

(c) a person who—

(i) owns, or

(ii) controls the exercise of the functions of,

the admission body; or

(d) the Secretary of State in the case of an admission body—

(i) which is established by or under any enactment, and

(ii) where that enactment enables the Secretary of State to make financial provision for that admission body.

9. An admission agreement must include—

(a) provision for it to terminate if the admission body ceases to be such a body;

(b) a requirement that the admission body notify the administering authority of any matter which may affect its participation in the scheme;

(c) a requirement that the admission body notify the administering authority of any actual or proposed change in its status, including a take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation and a material change to the body's business or constitution;

(d) a right for the administering authority to terminate the agreement in the event of—

(i) the insolvency, winding up or liquidation of the admission body,

(ii) a material breach by the admission body of any of its obligations under the admission agreement or these Regulations which has not been remedied within a reasonable time,

(iii) a failure by the admission body to pay any sums due to the fund within a reasonable period after receipt of a notice from the administering authority requiring it to do so.

10. An admission agreement must include a requirement that the admission body will not do anything to prejudice the status of the Scheme as a registered scheme.

11. When an administering authority makes an admission agreement it must make a copy of the agreement available for public inspection at its offices and must promptly inform the Secretary of State of—

(a) the date the agreement takes effect;

(b) the admission body's name; and

(c) the name of any Scheme employer that is party to the agreement.

12. Where an admission body is such a body by virtue of paragraph 1(d), an admission agreement must include—

(a) a requirement that only employees of the body who are employed in connection with the provision of the service or assets referred to in that sub-paragraph may be members of the Scheme;

(b) details of the contract, other arrangement or direction by which the body met the requirements of that sub-paragraph;

(c) a provision whereby the Scheme employer referred to in that sub-paragraph may set off against any payments due to the body, an amount equal to any overdue employer and employee contributions and other payments (including interest) due from the body under these Regulations;

(d) a provision requiring the admission body to keep under assessment the level of risk arising as a result of the matters mentioned in paragraph 6;

(e) a provision requiring copies of notifications due to the administering authority under paragraph 9(b) or (c) to be given to the Scheme employer referred to in that sub-paragraph; and

(f) a provision requiring the Scheme employer referred to in that sub-paragraph to make a copy of the admission agreement available for public inspection at its offices.

PART 4

Column 1: Person eligible for membership	*Column 2: Body deemed to be Scheme employer*
Employee of the governing body of a voluntary school where a local authority has, with the consent of the governing body, designated that employee or a class of employees to which that person belongs as being eligible for membership	The local authority referred to in column 1
Employee of the governing body of a foundation school or foundation special school where a local authority has, with the consent of the governing body, designated that employee or a class of employees to which that person belongs as being eligible for membership	The local authority referred to in column 1
Employee of the governing body of a technical institute or other similar institution which is for the time being assisted by a local authority under the Education Act 1996 where a local authority has, with the consent of the governing body, designated that employee or a class of employees to which that person belongs as being eligible for membership	The local authority referred to in column 1
Employee of the governing body of a federated school where a local authority has, with the consent of the governing body, designated that employee or a class of employees to which that person belongs as being eligible for membership	The local authority referred to in column 1
A person who was an active member of the 2008 Local Government Pension Scheme by virtue of regulation 8A of the Local Government Pension Scheme (Administration) Regulations 2008 and who continues in the employment of the Commissioners for Her Majesty's Revenue and Customs.	The London Pension Fund Authority
A coroner	The authority which appointed the coroner
The Mayor of London	The Greater London Authority
A member of the London Assembly	The Greater London Authority
A police and crime commissioner	That police and crime commissioner
A Local Commissioner within the meaning of Part 3 of the Local Government Act 1974	The Commission for Local Administration in England
A member of a passenger transport executive or a director of a subsidiary of a passenger transport executive, where the passenger	The passenger transport executive

transport authority for which the executive exercises its functions consents to the designation of that member or director as being eligible for membership

Annex B - Table of origins

The proposed regulatory structure and basic origins of the draft Local Government Pension Scheme Regulations 2013 are set out below.

“Benefit Regulations” means The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.

“Administration Regulations” means The Local Government Pension Scheme (Administration) Regulations 2008.

The Local Government Pension Scheme Regulations 2013	Origin of Regulation
PART 1 Membership, contributions and benefits	
1. Citation, commencement and application	**Benefit Regulations -** 1. Citation, commencement, interpretation and application **Administration Regulations -** 1. Citation, commencement and application
2. Introductory	New introductory Regulation
3. Active membership	**Benefit Regulations –** 2. Active members **Administration Regulations -** 4. General eligibility for membership 13. Joining the Scheme
4. Restriction on eligibility for active membership	**Administration Regulations -** 12. Further Restrictions on eligibility
5. Ending active membership	**Administration Regulations -** 14. Ending of membership
6. Deferred and deferred pensioner members	New Regulation introducing deferred and deferred pensioner members
7. Pensioner members	New Regulation introducing pensioner members

8. Pension credit and survivor members	New Regulation introducing pension credit and survivor members
9. Contributions	**Benefit Regulations -** 3. Contributions payable by active members
10. Temporary reduction in contributions	New Regulation dealing with 50/50 contribution option
11. Contributions during absence from work	**Administration Regulations -** 22. Applications to make absence contributions
12. Contributions during child-related leave	**Administration Regulations -** 18. Contributions during child-related leave
13. Contributions during reserve forces service leave	**Administration Regulations -** 19. Contributions during reserve forces service leave
14. Contributions during trade dispute absence	**Administration Regulations -** 20. Contributions during trade dispute absence
15. Contributions during absences with permission	**Administration Regulations -** 21. Contributions during absences with permission
16. Additional regular contributions	**Benefit Regulations -** 14. Election in respect of additional pension 14A. Election to pay additional contributions: survivor benefits **Administration Regulations -** 23. Payment of additional regular contributions (ARCs) 24. Discontinuance of ARCs
17. Additional voluntary contributions	**Benefit Regulations -** 15. Elections to pay AVCs **Administration Regulations -** 25. Additional voluntary contributions and shared cost additional voluntary contributions

18. Rights to return of contributions	**Administration Regulations -** 46. Rights to return of contributions
19. Exclusion of rights to return of contributions	**Administration Regulations -** 47. Exclusion of rights to return of contributions
20. Meaning of pensionable pay	**Benefit Regulations -** 4. Meaning of “pensionable pay”
21.Assumed pensionable pay	New Regulation introducing assumed pensionable pay
22. Establishment of pension accounts	New Regulation establishing pension accounts
23. Active member pension accounts	New Regulation dealing with active member pension accounts
24. Deferred member’s pension account	New Regulation dealing with deferred member’s pension accounts
25. Retirement pension accounts : active members	New Regulation dealing with active members retirement pension accounts
26. Retirement pension accounts : deferred, deferred pensioner and credit members	New Regulation dealing with deferred, deferred pensioner and credit members retirement pension accounts
27. Flexible retirement pension accounts	New Regulation dealing with flexible retirement pension accounts
28. Deferred pensioner member accounts	New Regulation dealing with deferred pensioner member accounts
29. Pension credit accounts	New Regulation dealing with pension credit accounts
30. Retirement benefits	**Benefit Regulations -** 16. Retirement benefits 17. Retirement after the normal retirement date 18. Flexible retirement 19. Early leavers: inefficiency and redundancy

31. Award of additional pension	**Benefit Regulations -** 13. Power of employing authority to award additional pension
32. Commencement of pensions	**Administration Regulations -** 50. Commencement of pensions
33. Election for lump sum instead of pension	**Benefit Regulations -** 21. Election for lump sum in lieu of pension
34. Commutation and small pensions	**Benefit Regulations -** 39. Commutation: small pensions
35. Early payment of retirement pension on ill-health grounds: active members	**Benefit Regulations -** 20. Early leavers: ill-health
36. Role of the IRMP	**Benefit Regulations -** 20. Early leavers: ill-health
37. Special provision in respect of members receiving Tier 3 benefits	**Benefit Regulations -** 20. Early leavers: ill-health
38. Early payment of retirement pension on ill-health grounds: deferred and deferred pensioner members	**Benefit Regulations -** 31. Early payment of pension: ill-health
39. Calculation of ill-health pension amounts	**Benefit Regulations -** 20. Early leavers: ill-health
40. Death grants: active members	**Benefit Regulations -** 23. Death grants: active members
41. Survivor benefits: partners of active members	**Benefit Regulations -** 24. Survivor benefits: active members
42. Survivor benefits: children of active members	**Benefit Regulations -** 27. Children's pensions 28. Children's pensions: active members
43. Death grants: deferred members	**Benefit Regulations -** 32. Death grants: deferred members
44. Survivor benefits: partners of deferred members	**Benefit Regulations -** 33. Survivor benefits: deferred members

45. Survivor benefits: children of deferred members	**Benefit Regulations -** 34. Children’s pensions: deferred members
46. Death grants: pensioner members	**Benefit Regulations -** 35. Death grants: pensioner members
47. Survivor benefits: partners of pensioner members	**Benefit Regulations -** 36. Survivor benefits: pensioners
48. Survivor benefits: children of pensioner members	**Benefit Regulations -** 37. Children’s pensions: pensioner members
PART 2 Administration	
49. Interest on late payment of certain benefits	**Administration Regulations -** 51. Interest on late payment of certain benefits
50. Payments due in respect of deceased persons	**Administration Regulations -** 52. Payments due in respect of deceased persons
51. Payments for persons incapable of managing their affairs	**Administration Regulations -** 52A. Payments for persons incapable of managing their affairs
52. Non-assignability	**Administration Regulations -** 53. Non-assignability
53. Pension Debits	**Benefit Regulations -** 41. Pension Debits
54. No double entitlement	**Benefit Regulations -** 42. No double entitlement
55. Limit on total amount of benefits	**Benefit Regulations -** 22. Limit on total amount of benefits
Schedule 1	
Interpretation	**Benefit Regulations -** 1. Citation, commencement, interpretation and application **Administration Regulations -** 2. Interpretation

	Schedule 1 Interpretation
Schedule 2	
Scheme employers Part 1	**Administration Regulations -** Schedule 2 Scheme employers Part 1
Scheme employers Part 2	**Administration Regulations -** Schedule 2 Scheme employers Part 2
Scheme employers Part 3	**Administration Regulations -** 5. Employees of non-Scheme employer: community admission bodies 6. Employees of non-Scheme employer: transferee admission bodies 7. Admission agreements – further provisions Schedule 3 Matters to be included in admission agreements with transferee admission bodies
Scheme employers Part 4	**Administration Regulations -** 8. Eligibility for membership of employees of other bodies listed in Schedule 2 9. Eligibility in certain cases of persons who are not employees 10. Supplementary provisions for certain members

Annex C - Principles Document - FINAL Version 1.9 15th December 2011

Employer and union agreement on the future of the LGPS

At the meeting of the 15th November between LGA lead members and officials from the GMB, Unison and Unite it was concluded that discussions should be progressed with the aim of reaching agreement on a set of high level principles for the Local Government Pension Scheme.

In setting this objective all parties accept that any agreement which may be reached would be subject to consultation with and confirmation by their respective memberships.

The following document is the result of the above discussions and forms the Heads of Agreement between the LGA and UNISON, GMB and UNITE (on behalf of the LGPS unions)

The principles

In scoping the principles it was recognised that the initial design of the new scheme is but one of a two part process. The second (and potentially most important part) being the setting of the employer contribution cap and the associated cost management and governance mechanisms required to ensure that the scheme can in future manage its own affairs without the need for secondary legislation.

Furthermore all parties accepted that both parts of the process must be progressed simultaneously in order to avoid the potential for misunderstanding and delay which may otherwise result.

In respect of the timetable for progress there was mutual recognition that the real driver should be the requirement to have regulations in place by April 2013. The government's desire for progress on a scheme outline by the end of 2011 was recognised as a valid aspiration within that overall timetable. In this respect this document should be read in conjunction with the timetable which follows entitled;

LGPS 'single step' solution: timescale, milestones and actions required

The principles set out below are based on the broad parameters set out in the meeting of the 15th.

New scheme design principles

Principle 1. A single solution to both short and long term issues by the early introduction of the new scheme (regulations by April 2013 and implementation from April 2014) negating the need for scheme changes prior to April 2014.

Principle 2. That the single solution be designed around options that will be worked on the basis of career average and can include zero increases in employee contributions for all or the vast majority of members provided overall financial constraints are met (recognising that such constraints may change subject to further negotiations with Treasury on meeting the costs of protections – principle 7 - and that there will be no triple counting of recycled savings).

Principle 3. That the new scheme incorporates some elements of choice designed to encourage both retention of existing membership and encourage new membership.

Principle 4. That scheme costs are based on actual experience and the base numbers are provided by Government Actuary's Department (GAD) from the model fund data, can be independently verified and are supported by the Association of Consulting Actuaries (ACA).

Principle 5. In order to encourage flexible retirement, the age at which benefits may be taken (the pension age) is to be any time between 55 and 75. Benefits are to be adjusted up or down relative to the proximity of the pension age to the Normal Pension Age (NPA) which is to be linked to State Pension Age (SPA) or age 65 whichever is later.

Principle 6. That access to the scheme be provided for a broad range of employees who deliver public services through the continuation of current Admitted Body Status (ABS) arrangements

Principle 7. That the method of meeting the cost of protections (final salary and retirement age in the old scheme and the 10 year protection of pension and age into the new scheme), their value relative to other public sector schemes and their scope for recycling need to be confirmed by Treasury.

Principle 8. That scheme cost efficiencies be realised through more effective procurement and provision of both administration and investment services

Principle 9. That the LGPS maintain its relative value in terms of benefits in relation to other public sector schemes

Principle 10. That the scheme design be subject to robust and independent equality impact assessment to ensure it meets all legislative equality requirements in both effect and intent

Management and governance mechanism principles

Principle 11. That the value of the ongoing scheme and the employer contribution cap within that value be set by agreement between the principal stakeholders of the scheme.

Principle 12. That the employer contribution cap contains both ceiling and floor values (cap and collar)

Principle 13. To ensure the long term sustainability of the scheme the mechanisms of management and governance necessary to maintain employer contributions within the cap and collar be set by scheme regulation, be under the control of the principal stakeholders of the scheme and use model fund data.

Principle 14. The mechanisms shall include tools to vary liabilities and revenue (e.g. changes to the benefit structure and / or employee contribution rates). The mechanisms shall also include a default position should agreement not be reached within a preset timescale. However such a default position should not contain a predisposed and disproportionate disbenefit to either employees or employers

Principle 15. That a clear and effective mechanism be put in place to translate the effects of cap and collar to individual employers in the LGPS. In particular the circumstances which will allow for individual employer rates to be set outside of the cap and collar.

Principle 16. That within the cap and collar individual funding levels are to be monitored and constrained within an acceptable range.

Principle 17. That the cap and collar mechanism be an intrinsic part of the agreement on the new scheme not a separate process.

LGPS ‘single step’ solution: timescale, milestones and actions required

A significant principle currently under discussion by union officials and LGA is the meeting of both short and long term pensions reform objectives by a single step to a new scheme earlier than the 2015 date proposed in the reference scheme.

The principle under discussion is:

Principle 1. A single solution to both short and long term issues by the early introduction of the new scheme (regulations by April 2013 and implementation from April 2014).

This document sets out the timescale, milestones and actions which would be required in order to put this principle into effect.

Objective

The timescale for this process is determined solely by the requirement to have regulations in place by the 30th March 2013. **Without regulations being in place by that date fund actuaries will not be able to take the effect of scheme changes into account for the 2013 valuation and therefore short term reform objectives will not be able to be met.**

Having regulations in place by March 2013 also provides sufficient time for the necessary changes to systems, process and most importantly member communications to be made.

Recognising the constraints we face the timescale envisages a four stage approach. The approach has the objective of achieving all four stages but also that stages 1 to 3 are absolutes whilst stage 4 could be delayed.

Stage 1 – agreement on principles and timescales
Stage 2 – agreement on 'big ticket items (contributions, accrual rate, revaluation rate, protections, employer cap, cost management mechanism - outline),
Stage 3 – agreement on remainder of scheme design and cost mechanism details
Stage 4 – agreement on mechanism to provide assurance of effective management of individual funds

Timetable

- Nov/December 2011 – discussions on stage 1, consultation and sign off process for unions and employers, submission to ministers for approval

- Jan to April 2012 – discussions on stage 2, consultation by unions and employers on proposals resulting from discussions, costing of stage 2 scheme by GAD

- April to September 2012 – joint communication programme for scheme members, redesign of systems and procedures, setting up of cost management mechanism, commence drafting of regulations

- April to November 2012 – discussions on stages 3 and: 4, consultation by unions and employers on proposals resulting from discussions, costing of stage 3 scheme by GAD

- September 2012 to March 2013 –,consultation on and making and laying new scheme regulations to reflect the outcome of the above process

- March 2013 - commencement of scheme valuation

- October 2013 –initial valuation results

- October 2013 to March 2014 – pre implementation communications for members and employers, parallel run of systems and procedures, test run of cost management mechanism against model scheme

- April 2014 – New scheme in place, new employer contributions from 2013 valuation in effect

Milestones

In order for the process to be achieved successfully the following milestones will need to be met;

- By 31st December 2011 –stage 1 principles for scheme design and cost management agreed by unions and employers and accepted by government as a robust direction of travel

- By April 2012 – agreement on stage 2: the 'big ticket' items for the new scheme. Acceptance by government of cost management mechanism. Achievement of this milestone to be managed as set out in the section which follows entitled **Stage 2 decision management process.**

- By September 2012 – commencement of process required to draft regulations and complete statutory consultation. Recognising that consultation may overlap the process below

- By November 2012 – agreement of and consultation on stages 3:and 4. Recognising that consultation may overlap the DCLG process above

- By 30th March 2013 – new regulations in place

Actions

In order to achieve the above timescale and milestones the following actions will be required some of which will be the responsibility of others to ensure the timetable is adhered to.

- Formal sign off/acceptance processes to be completed by both employers and unions within timescales shown (e.g. employers side will require approval by Executive at stage 2)

- An independent equality impact assessment to be carried out at stages 2 and 3 to ensure that the proposals are fair and meet all legislative equality requirements in intention and effect.

- Response by government to the principles and proposals at stages 1 and 2

- Necessary calculations to be commissioned by DCLG and produced by GAD and/or ACA for the proposed scheme at stages 2 and 3 within the timescale shown

Stage 2 Decision management process

It is imperative that assurance is provided to all stakeholders of the commitment to achieve the objectives of stage 2 within the timescale. The agreement of the ‘big ticket’ items is vital to the success of the overall project and will therefore require robust management of the time and resources available. It is therefore intended to use the principles of PRINCE2 project management to ensure an effective outcome.

The process will therefore include

1. LGA to provide secretariat and project management support for the process to include the provision of a project plan, setting and hosting meetings, takings minutes, maintaining an actions log, a risk log and the provision of regular reporting.

2. The project plan to include objective dates for agreement in principle on the following scheme elements:

- Confirmation of the basis of the scheme design (e.g. CARE)

- The accrual rate for the scheme

- The revaluation rate

- The actuarial methodology for variation to benefits either side of the NPA

- The value, distribution and phasing of any employee contribution increases

- Transitional protections

- The parameters of the employer cap and collar

- The mechanism for variation of the elements to maintain scheme costs within the cap and collar values

- Recommendations on best practice in governance and procurement

together with sufficient time for the necessary consultation and formal agreement process for both unions and the LGA. This project plan to be available in draft form to the first meeting of the project team.

3. The creation of project team to work up costed options for the above elements, consider the implications of each on the overall cost balance and equality impact of the new scheme and make recommendations to the project board. This team to meet weekly and consist of officials from lead unions (to include pensions officers) , LGA and DCLG.

4. The creation of a project board to include union leads, lead members from LGA and senior DCLG officials to meet fortnightly and have the ability to ratify in principle the recommendations of the working group. This group would also have responsibility for ensuring the elements of the project plan are adhered to including the identification of blockages and the action required to rectify any slippage.

5. Support from GAD, ACA and Treasury officials to provide accurate and agreed costings of the options and agreed recommendations

6. 6. Fortnightly reporting to DCLG and Treasury ministers and LGA executive on progress against the plan, blockages and risks identified and any remedial action being taken.

7. The project team to meet first on the 3rd January and then on each Monday. The project board to meet first on the 11th January and then every second Wednesday. Reports to be available to DCLG and Treasury ministers firstly on the 13th January and then on every second Friday.

Final version 1.9

LGA Head of pensions
15th December 2011

Annex D

Bob Neill MP
Parliamentary Under Secretary of State
Department of Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

29th May 2012

Dear Minister

Local Government Pension Scheme 2014 project
Project Plan - Workstream one outcomes

Further to recent discussions with your officials we attach our scheme design proposals and employee contribution bands and rates. We understand GAD have confirmed these proposals meet the cost ceiling of 19.5%.

The lump sum death in service benefit will be 3 x.

The cost of the residual post 2014 Rule of 85 protection will be spread over a 7 year period. At the end of which period the benefit structure will be reviewed to restore its value to 19.5%.

The employee contribution bands and rates will be reviewed prior to implementation to ensure a maximum yield of 6.5%.

We would be grateful if you could confirm your acceptance of the design, bands and rates as attached.

Yours sincerely

Mayor Sir Steve Bullock: Chair LGA Workforce Board (Labour)

Cllr Steve Comer: LGA Pensions lead team (Liberal Democrat)

Cllr Roger Phillips: LGA Pensions lead team (Conservative)

2014 Project - Proposed Scheme design

DB Structure	CARE using actual pay
Accrual Rate	1/49th
Revaluation rate	CPI
Normal Pension Age	Linked to State Pension Age
Employee contribution yield	As current scheme - 6.5%
Lump sums	As current scheme (12:1)
Ancillary benefits	Death benefits A 1/160th survivors benefit in respect of members in both the full scheme and those with the 50/50 option. A 3x death in service lump sum. Ill health as per current scheme
Early and late retirement	From age 55 on a cost neutral basis
Abatement	Retain pending review of current cost. If the cost of removal is confirmed by GAD having no effect on the overall scheme cost then we would seek to remove it
Accrued rights	Fully protected with final salary link
Start date	Apr-14
Admitted Body Status	As current scheme but extended to ensure that all staff whose employment is compulsorily transferred including under TUPE and subsequent TUPE transfers, will still be able to retain membership of the LGPS when transferred –see note 2
Transitional protection	Underpin for members aged 57 to 59 in new scheme Rule of 85 protection as per current scheme
Vesting period	2 years
Option to combine	As per current scheme
Optional arrangement	'Life balance' 50/50 contribution/accrual

Proposed contribution bands and rates

Lower	**Upper**	**Rate**	**Net rate**	**Net Increase**
£0	£13,500	5.5%	**4.40%**	0.00%
£13,501	£21,000	5.8%	**4.64%**	0.00%
£21,001	£34,000	6.5%	**5.20%**	0.00%
£34,001	£43,000	6.8%	**5.44%**	0.00%
£43,001	£60,000	8.5%	**5.10%**	*1.02%
£60,001	£85,000	9.9%	**5.94%**	1.62%
£85,001	£100,000	10.5%	**6.30%**	1.80%
£100,000	£150,000	11.4%	**6.84%**	2.34%
£150,000	+	12.5%	**6.88%**	2.38%

*as the current bands straddle the above bands at this point the increase shown is the maximum, the majority in this band would see a net increase of 0.78%.

Annex E - Written Ministerial statement of 19 December 2012 on councillors pensions

On 12 September 2001, the then Department for Transport, Local Government and the Regions announced plans to give taxpayer-funded pensions to councillors, through access to the local government pension scheme.

The proposals came into force in 2003. The Councillors' Commission report of the last administration noted that 912 councillors in England had joined that pension scheme by 2004. A Taxpayers' Alliance survey in February 2009, across the whole United Kingdom, found that 3,527 councillors had pensions as of 2007 to 2008; a further survey in January 2012 found that figure had increased to 4,548 councillors by 2010 to 2011. The trend is clear.

Abolition of taxpayer-funded pensions

Ministers in this government take a fundamentally different view to the last administration. We do not believe that taxpayer-funded pensions are justified. Councillors are volunteers undertaking public service; they are not and should not be employees of the council dependent on the municipal payroll. They are not professional, full-time politicians, nor should they be encouraged to become so.

Councillors do not receive a salary; rather, they receive allowances to compensate for their out-of-pocket expenses. Yet following changes made by the last administration, allowances have slowly become a form of salary, a situation worsened by the state-funded pensions. This is a corrosive influence on local democracy and independent thought, blurring the distinction between council staff and councillors.

Every bit of the public sector needs to do its bit to help pay off the deficit inherited from the last administration. Local government grants are being reduced. Ministers have cut and then frozen their salaries. Public sector pensions, including parliamentary pensions, are being reformed to reduce the burden on taxpayers. It is only right that councillors do their bit as well.

We do not believe that an occupational pension scheme intended for employees, and paid for by taxpayers, is an appropriate vehicle for councillors.

Existing pension rights

Subject to consultation, we propose that there will be no access for councillors to the local government pension scheme in England from April 2014. In the interests of fairness, those councillors already in the scheme would have their accrued rights up to April 2014 fully protected, but would not be able to accrue any further benefits after that date in the existing scheme.

This will not prevent councillors contributing to a personal pension: if they put aside part of their (taxable) allowances into such a pension, then that is a matter for them; they will continue to receive income tax relief like any ordinary member of the population, subject to the prevailing tax rules.

Although central records on councillors' participation in the scheme are not held by my department, initial rough estimates suggest that this could save £7 million a year in taxpayers' money. There is absolutely no case for increasing councillor allowances to compensate. Instead, councils may want to consider earlier, voluntary closure of the scheme to their councillors as a sensible saving.

Civic duty

Eligibility regulations for the local government pension scheme are overseen by my department. Although this is a centrally mandated change (as was its original introduction), we believe these reforms will assist localism and local democracy by encouraging a greater separation between councillors and officers. Robust local scrutiny of council spending requires councillors to be substantively independent of means and of thought from the body they are overseeing. Civic duty should not be bought.

We do not believe it will have any detrimental effect on people choosing to become councillors. The best thing we can do to encourage more people to take part in municipal public life is to decentralise power to local communities so being a councillor is a meaningful and rewarding role.

Elected mayors

We recognise that there is a greater expectation that an elected mayor is a full-time position. We therefore propose to consult on allowing elected mayors to remain in the scheme as a voluntary option (but not as an expectation), subject to local scrutiny, challenge and determination. The salaries of the mayor of London, members of the Greater London Assembly and police and crime commissioners will remain pensionable.

Timing

Statutory consultation is required and will commence in due course, as part of the planned consultation on the wider reform of the local government pension scheme. We will consult with the Welsh Assembly government in respect of access to the local government pension scheme for councillors in Wales.

As a former councillor myself, I would like to pay tribute to their often unsung and ongoing work in standing up for their local residents. We hope these reforms will further strengthen the integrity and independence of councillors and increase the respect within their communities for the voluntary work they undertake as champions of the people.

Annex F - LGPS - Cost controls

The approach under discussion is that the Government agree the project group's proposals for cost control, nesting these within an additional automatic cost control backstop. Both systems will control member cost risks, including the past and future cost risks associated with:

- Active members of the reformed schemes, including any service they have in the existing LGPS;
- Deferred and pensioner members of the reformed LGPS; and,
- Transitionally protected active members of the existing LGPS.

Project Group Proposals - National Scheme Cost and National Model Scheme Cost

The target future cost of the scheme shall be 19.5% of pensionable payroll measured using LGPS fund data and fixed GAD assumptions (i.e. the same assumptions as those used to measure the initial scheme design cost as submitted in workstream 1 of the 2014 project).

The target cost shall consist of member contributions set by the statutory schedule and designed to yield 6.5% overall together with employer contributions of 13%.
Although this process will not directly manage the total costs of individual LGPS funds the following principles will apply to those costs:

- The contribution rate paid by employers must always be at least that set by the fund actuary
- The total employer rate (future and past service) shall never be less than the total yield set for employees

Measuring against the target cost

At each valuation (commencing in 2016) movements against the target cost shall be measured by both by the fund actuaries and GAD producing the following cost measures (both calculated to one decimal place)

The National Scheme Cost (NSC) – a weighted average (by pensionable pay bill) of calculations performed at the fund level using local membership data and fixed GAD assumptions

The National Model Scheme Cost (NMSC) – a calculation performed by GAD using model scheme data and fixed GAD assumptions

These two numbers (NSC and NMSC) should be very close and should vary only due to the timing of submission of membership data to GAD and the fund actuaries.

Cost drivers

The fund actuaries and GAD would also report on the drivers of movement in cost in particular:

- The primary reason for the movement
- If the movement is structural or temporary

Reasons for movement will likely be one or more of the following elements of membership data:

- Membership profile: average age, sex, length of service, early withdrawals
- Commutation experience
- Take up of the 50/50 option
- Longevity experience

The risk of movements in cost driven by longevity will be managed by the link to State Pension Age. To further inform this process an LGPS longevity index is to be constructed which will enable fund actuaries to measure the extent of any divergence between national and LGPS longevity. The impact of such divergence would be included in the background information of any recommendations made to the Secretary of State. The exact format of this index is still to be agreed with fund actuaries.

Triggers

Where cost movements are, in the view of the Board (with advice from fund actuaries and GAD) structural or permanent in nature the following triggers would be effective:

- Movement between 0% and 1% from the target in either direction may result in agreed recommendations for action to move back to the target
- Movement between 1% and 2% from the target in either direction should result in agreed recommendations for action to move back to the target
- A 2% or more movement from the target in either direction must result in agreed recommendations for action to move back to the target or a default process to move back to the target will be triggered

Note that for the triggers to be hit both the NSC and NMSC must show movements in excess of the trigger point. In the case that both measures exceed a trigger but differ in extent then the measure with the lowest divergence from the target will be used for the purposes of this process.

In the first instances (movements between 0 and 2%) any agreed recommendations (to the Secretary of State) should take into account the reasons for the movement and therefore the appropriateness of the following measures together with a reasonable period over which to move back to the target

- Change the design cost .(e.g. change the future accrual rate, Normal Pension Age or some other design element)
- Sharing the movement in cost (e.g. change the employee contribution rate)

Recommendations should be with the Secretary of State as soon as possible and in any case in good time for changes to be enacted for the next valuation.

Changes made to scheme design cost would be by agreement, in the terms set out in the Public Service Pensions Bill, over the “high hurdle” described in clause 20.

Exclusions from this process
For the purpose of clarity the following are not included in this process but are to be dealt with as shown:

- Investment performance – to be managed via improved governance
- Movements in GAD assumptions – any substantial changes to the fixed GAD assumptions which move the cost of the scheme design could result in a re-opening of discussions on the future sustainability of the scheme
- Existing past service deficits or surpluses – only newly arising past service deficits and surpluses will be included in the process.

Automatic backstop – GAD Model fund

The automatic backstop will stand behind and separate to the NSC/NSMC. It will be based on the GAD model fund, which will set a cap expressed as a percentage of pensionable pay at the next model fund valuation.

Rather than seek to manage the average of local employer contributions, the GAD LGPS model fund will measure the national costs of accruing scheme benefits alongside certain past service deficit and surplus effects (more detail on past service effects below). It will be based on a similar methodology as the model fund agreed for cap and share – i.e. it will use scheme data, but the SCAPE discount rate and other centrally set financial, demographic and methodological assumptions, so as to target just “member costs” (for example, longevity and final salary risks). GAD model fund will not be affected by take up of 50/50. Employer costs will be excluded (discount rate, changes to pension indexation and funding). The backstop will measure future service costs for the new scheme, and newly arising past service deficits or surpluses on the GAD model fund, relating to both the new scheme and active members of the old scheme.

The default action specified as part of the backstop mechanism will only be activated if the costs as measured by the GAD Model Fund at the second and subsequent valuations move by more than two percentage points, and after consideration of the results of the GAD LGPS model fund the LGPS Scheme

Board were unable to reach agreement on the appropriate response to bring costs back to the level of the cap.

Relationship between the NSC/NSMC and GAD model fund

The LGPS Board can make recommendations for change in order to meet the target scheme cost on the NSC measure. If these are accepted by the Secretary of State, the backstop cost cap figure in regulations would be adjusted as appropriate to account for changes that are caused by elements included in the NSC, but not the GAD model fund. This ensures the control of scheme costs is not impeded, and removes feedback loops.