



meeting

PENSIONS ADMIN SUB COMMITTEE

date

12th SEPTEMBER 2005

agenda item number

REPORT OF THE DIRECTOR OF RESOURCES

DRAFT LOCAL GOVERNMENT (CIVIL PARTNERSHIP) REGULATIONS 2005

1. Purpose

- 1.1 To inform the Pensions Administration Sub-Committee of the proposed technical amendments to the LGPS scheme.

2. Background

- 2.1 With effect from 5 December 2005, the Civil Partnership Act 2004 will allow same-sex partners to register a civil partnership. From that date, same-sex couples wishing to form a civil partnership will be able to notify the Registration Service; the earliest date a registration ceremony can take place will be 21 December 2005.
- 2.2 Further to entering a civil partnership, certain rights and responsibilities will flow, including pension rights for the surviving civil partner of a member of an occupational scheme. Therefore, technical amendments are required to the regulations in the Local Government Pension Scheme and related loss of employment and injury compensation arrangements. These survivor benefits will be calculated on a member's membership accrued after 5 April 1988, at no additional cost to members. This applies not only to current active members but also to deferred and pension members with membership after that date.
- 2.3 The broad principles are as set out in 3.

3. Proposed Amendments

3.1 Local Government Pension Scheme Regulations 1997

The proposed amendments to the 1997 Regulations will provide survivor benefits for civil partners in the event of the death of an active, deferred or pensioner member. Membership after 5 April 1988 will count in calculating any such benefit. This will include added years purchased after 5 April 1988, membership credited on transfer-in from another scheme in relation to LGPS employment commencing after that date, ill-health enhancement and

augmentation awarded after that date. The Pension Sharing on Divorce provisions are extended to apply to dissolution of civil partnerships.

The Government's intention is that the surviving civil partner of any member – active, deferred or pensioner – with post 5 April 1988 membership should be entitled to benefit. Because civil partnership will not have been available before December 2005, no distinction will be made on the basis of whether the civil partnership was entered into before or after the member ceases or ceased local government employment.

3.2 Local Government Pension Scheme (Transitional Provisions) Regulations 1997

The proposed amendments will have the effect of providing survivor benefits for civil partners in the event of the death of a deferred or pensioner member who ceased local government employment between 6 April 1988 and 31 March 1998. Membership after 5 April 1988 will count in calculating any such benefit, on the same basis as for 1997 scheme members.

3.3 Local Government (Discretionary Payments) Regulations 1996

Regulation 37 provides for the payment of a death grant where an employee sustains an injury or contracts a disease as a result of something he was required to do in carrying out his work and dies as a result of the injury or disease. The proposed amendments will provide for a death grant to be paid to a civil partner in such circumstances. This amendment will have effect from 5 December 2005 when it becomes possible to notify intention to register a civil partnership. Part VI provides for the payment of gratuities. The proposed amendments will provide survivor benefits to be paid to a civil partner where the same criteria for paying spouses' benefits are met. These benefits are not awarded by reference to membership of the LGPS. However it is considered that to ensure parity of treatment with pensions, civil partners should be entitled to survivor benefits where the criteria for payment of a spouse's benefits are met.

3.4 Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000

The proposed amendments provide survivor benefits for a civil partner in the event of the death of a former employee who has been awarded a credited period. These benefits are not awarded by reference to membership of the LGPS. However it is considered that to ensure parity of treatment with pensions, civil partners should be entitled to survivor benefits where the former employee ceased employment after 5 April 1988.

3.5 Costs

The costs which may arise from the introduction of these amendments will be dependent on the actual take-up by the membership at a future date. Ultimately, however, the cost of providing survivor benefits for civil partners, based on membership from April 1988, will be borne by the scheme over time and would need to be factored into each appropriate valuation exercise.

The Regulatory Impact Assessment (RIA) prepared for the Civil Partnership Act 2004 set out the estimated costs for the public service pension schemes. On the basis of the assumptions and costs in the RIA, the Government Actuary's Department have estimated that the cost to LGPS employers in England and Wales might amount to between £2.1m and £4.2m per year for future service, depending on take-up. Past service costs (to April 1988) would add a further one-off liability of between £12m and £25m. Annually, using a deficit recovery period of, say, 21 years, these costs represent a small proportion of total costs.

3.5 The Nottinghamshire Pensions Administering Authority will need to consider the most appropriate means of dealing with these liabilities going forward, so that an up to date position on their total impact can be assessed. We will discuss this with the funds actuary as part of the work on interim valuation following the revocation of the regulations.

3.6 Pre 6 April 1988 membership

There were differences in treatment before 6 April 1988 between male and female scheme members as regards surviving spouses' benefits. The draft regulations aim to achieve parity between married couples and civil partners from that date by providing for membership on or after 6 April 1988 to be taken into account for calculating surviving civil partners' benefits. However it would be possible to provide a facility for active members to count a period of membership between 1 April 1972 and 5 April 1988 for the purpose of calculating a civil partner's benefit, providing the full cost for that period is met by the member. Any such arrangement would go beyond the provisions in the primary legislation governing civil partnerships which the amendments proposed here are intended to implement. Such a facility would therefore have to be considered separately in the same way as other new proposals and changes to the scheme will be dealt with. The ODPM have invited views on whether such arrangement would be welcomed

4. Recommendation

- 4.1 That the Pensions Administration Sub-Committee notes the content of this report; and
- 4.2 That the Sub-Committee in regard to 3.6 decides as to whether the full cost should be borne by the member or by the Pension Fund.

A DEAKIN
Director of Resources

Personnel Implications

None.

Equal Opportunities Implications

The amendments proposed to the LGPS scheme will allow a same-sex civil partner to have pension rights of a member of an occupational scheme.

Crime and Disorder Implications

None.