

LOCAL GOVERNMENT PENSION SCHEME PHASE 2

POLICY PROPOSALS DISCUSSION PAPER

UNISON RESPONSE

POLICY CONTEXT

UNISON believes that the LGPS is essentially a good scheme that should continue to evolve by removing remaining areas of discrimination. It is essential that it retains its statutory basis and its final salary guarantee. It is also essential that it continues to provide a good package of early retirement, ill health cover and death cover benefits so that it remains of relevance to future members. It is important that it should also be affordable for individual members and they continue to have faith that the scheme will be there when they need it.

It is our view:-

- That the structure and benefit provision of the scheme is already flexible enough to deal with the changes in Local Government and its broader workforce framework.
- The scheme provides the minimum acceptable level of retirement benefit for low paid members.
- The LGPS by converting itself into an industry-wide scheme has already constructively responded to policy developments.
- That pension is effectively deferred pay and is based on a promise to provide the benefits contained in the scheme regulations. It is essential therefore that the statutory basis be maintained and that members continue to have confidence in the scheme.
- We believe strongly that the LGPS is both affordable and sustainable for all Stakeholders. In the future, this will depend on how effectively the scheme is marketed and how attractive and relevant it remains for new employees and young members in particular. The decline in the Stock Market has exaggerated the cost of the scheme in the short term. Although marginal increases in life expectancy have led to an overall increase in pension provision in general, it is the recent decline in the Stock Market that has caused the great increase in pension costs. Twenty years ago, despite improving life expectancy at that time, the costs of the schemes were so low because of investment return that for many pensions funds the majority of the contribution came from the members with the employer taking a 'contribution holiday'.

PROPOSALS FOR CHANGE TO THE CURRENT LGPS FRAMEWORK

UNISON is fully aware that most of the changes proposed in Phase 2 result directly from proposals by Government in their White Paper Simplicity, Security and Choice. UNISON is opposed in principle to increasing the age at which a member can get an unreduced pension from 60 to 65 and also the increase of the earlier stage at which benefits can be paid from 50 to 55.

REMOVAL OF THE 85 YEAR RULE FOR NEW MEMBERS

UNISON has already responded to previous papers stating that we are against the removal of the 85-year rule. The overwhelming response from members is dismay that this change is proposed at this time.

In the paper, it correctly states that the Rule of 85 was introduced on 31 March 1998 and that the normal retirement age is 65. What the paper does not mention though is that, prior to that date, the “Rule of 25” meant that anyone who had completed 25 years qualifying service by age 60 could retire with an immediate unreduced pension. This means that the effective normal retirement age for most members is 60.

The Rule of 85 introduced voluntary retirement before age 60 and the formula meant that for long serving staff the option of voluntary early retirement was at least possible because of the reduced early reduction factor. The employer decides whether or not to allow the member to retire and because of the cost it seems to be seldom granted. It is therefore strange that the employer seemed to raise the issue of cost of this provision as it is effectively at their discretion as to whether or not to use it before the age of 60. When members are allowed to retire voluntarily before the age of 60 it is on the basis that the employer is saving money by the cutting of a post or reorganising the workplace.

In the private sector, the employer invariably has the power to waive the early retirement reduction on an early retirement pension if it is in the interest of the business. In Local Government, because of a prevalence of low pay, any early retirement reduction will mean that many employees are left with the stark choice between staying on in work regardless of circumstances and motivation, or retiring into poverty and living on the State. UNISON believes it is essential that the flexibility to allow all members including the low paid, a feasible option to retire early should be retained.

Only a formula that reduces the early retirement factor is likely to achieve this and allow it to be operated in a fair and equitable way. Clearly the Rule of 85 was one solution but simply removing it will make early retirement and flexible retirement a non starter for a high proportion of the workforce

In conclusion, the majority of members, under the present rules, are able to retire between the ages of 60 and 65 without reduction. It therefore represents

a considerable detriment to Local Government workers and needs proper time to consider before introduction. We see the likely outcome of this change as:-

- removing flexibility of the scheme.
- a potential serious reduction of benefits especially for young members.
- a disincentive to join.
- increasing capability and ill health retirements.

For these reasons, we see no justification for introducing this change on 5 April 2005, and call for proper discussion and research to be undertaken so that Local Government workers are not disadvantaged in comparison to their colleagues in other public services by this change being introduced a year before other public service schemes.

PHASING OF THE “85 YEAR RULE” FOR EXISTING MEMBERS

UNISON clearly would not wish the removal to effect existing members in any way including ill health and redundancy. For existing members, the prospect of future service being reduced for early payment means a serious loss of pension expectation and a loss of confidence in the pension scheme.

Many simply do not have the choice to stay until the age of 65 due to family circumstances and long laid plans based on the current rules of the scheme and State benefits. For example it is potentially discriminatory against women whose State Pension age remains 60 until the phase up begins between the years 2010 and 2020.

From the responses that we are getting from the membership of the scheme, it is clearly a very serious issue and there are likely to be major HR implications if members were to be treated in this way.

We can see absolutely no justification for treating workers in the LGPS any less favourably than those in other public service schemes. While totally opposing the changes, we would be particularly concerned if those nearing retirement were treated any differently to those in the Teachers Pension Scheme or Civil Service Schemes in terms of lead in period. Again the introduction date of 1 April 2005 is just not practical in that it does not allow proper debate and consideration of the effects of this change on the existing workforce.

It is a concern to the existing workforce that their views do not appear to carry equal weight to that of the other Stakeholders of the scheme. These are the members who for many years actually paid the bulk of the cost of the scheme during periods of contribution holidays and surplus and have relied on the promise contained in the regulations that they will be able to retire at 60 on an unreduced pension.

It is our view that allowing members to elect for early payment of pre 1 April 2005 benefits at the age that would currently satisfy the Rule of 85 would be the minimum requirement. This is not only on the grounds of fairness but also based on our interpretation of Section 2(3) of the Superannuation Act 1972. I.e. "no scheme shall make any provision which has the effect of reducing the amount of any pension, allowance or gratuity insofar as that amount is directly or indirectly referable to the rights which have accrued".

LGPS - INCREASING THE EARLIEST STAGE AT WHICH LGPS BENEFITS MAY BE PAID OTHER THAN ON THE GROUNDS OF ILL HEALTH FROM 50 TO 55

As mentioned in the paper, the Inland Revenue's consultation paper says that such a change should occur by 2010. We see absolutely no justification for implementing it effectively five years before it is needed to be under current Government policy. No case has been made as to exactly how this will be beneficial to the scheme and its Stakeholders.

The members, who are the major Stakeholder in that they rely on this scheme for their future standard of living and have paid into it on that basis, are completely against this change. There is widespread scepticism amongst the members of the scheme who have responded to us, as to the reasons why there should be such a rush to change this age without proper discussion with the members of the scheme.

There is no indication that the employers will change their redundancy strategy. Clearly, if this does not happen, then someone made redundant between the ages of 50 and 55 will suffer a catastrophic loss of pension expectation. For many members, this will simply lead them into poverty with little chance of reemployment. Again we question how this change is likely to sit within the wording of the Superannuation Act 1972. The right to retire at age 50 if made redundant is clearly an entitlement under the current Regulations and is referable to rights which have accrued "whether by virtue of service rendered, contributions paid or any other things done".

As a minimum, if this change was to be eventually introduced, then service up to the date of the change should be fully protected. Members made redundant between the ages of 50 and 55 should either have the right to draw that pension or, if that is not possible in the light of Inland Revenue rulings, this pension should be deferred and increased by a late payment factor.

THE COST ISSUES REGARDING THE ABOVE CHANGES

It has been put to the TUC side that the reason for this rush to change the scheme arises in part at least from the fear of increasing employer costs as a result of imminent valuations of the schemes. No figures have been provided to justify these assertions. Based on information we are receiving from

representatives on investment panels, the situation is complex and, indeed, the partial recovery of the Stock Market means that instead of costs going up they may actually reduce as a result of this round of valuations.

In summary:-

- No one knows exactly what the increases/decreases will be in the light of the partial Stock Market recovery and possibly raising interest rates.
- The ODPM have not indicated what the proposed changes would save. It is unlikely that the changes will save much in the short term.
- It would appear that this rush to change is mainly based on short-term political considerations and there is no guarantee that it will actually work in sustaining the pension scheme.
- We hear rumours from various sources that there are 'hawks' both in Government Departments and elsewhere who feel that public service employees should receive inferior pension benefits.
- It is doubtful whether either the public or the 'hawks' faced with higher local tax bills understand the relevance of any of the changes and it is unlikely to deter attacks on the scheme.

There must be time to consider these aspects properly and in the light of concrete information on the exact increase in costs to the scheme. Until the employers are able to demonstrate that there are career structures for workers who wish to work to 65 and above to do so, then these changes should not be introduced.

There also needs to be considerable work done on the effect of increasing the minimum and normal retirement ages on all those who are "burning out" in their mid to late fifties. The stressful nature of a lot of Local Government occupations means that many staff are unlikely to be able to work beyond the current age of 60 and that are major implications for ill health retirement and other staffing issues.

TAXABLE RETIREMENT AND INCENTIVISATION METHOD TO ASSIST TO RETAIN SCHEME MEMBERS IN EMPLOYMENT

UNISON support any move to remove age discrimination within the pension scheme.

There needs to be debate on whether Regulation 20 (4a) needs to be changed. If a member wishes to work beyond the age of 65, then this should still be regarded as late retirement. It would be logical for the member rather than accrue additional membership, continues to be given the benefit of a late actuarial increase for each day of service after the age of 65. This would seem logical on the basis that if members retire early they suffer an actuarial

reduction (if they have not attained either the Rule of 25 or the Rule of 85) so if payment of benefit is deferred it should be increased in a similar fashion.

If the Government and scheme employers are serious in their stated aim of encouraging members to remain in the workforce for longer, then there needs to be genuine incentives. Options would be to award either a higher accrual rate after the age of 60, or a lump sum payment, or an actuarial late payment increase. This is likely to be more successful in encouraging members to stay in service than penalising them if they want to retire before age 65.

We would support the removal of abatement provisions for those retiring and being re-employed in jobs that participate in the LGPS.

FURTHER STREAMLINE RE PHASE 1 AMENDMENTS TO THE LGPS IDR PROVISIONS IN LINE WITH AMENDMENTS TO BE MADE UNDER FORTHCOMING PENSIONS BILL

In Phase 1 UNISON have already responded along the lines that we are doubtful that this change is in the interests of the membership.

We await evidence that the Pensions Ombudsman has the necessary expertise in the Local Government Pension Scheme and can determine appeals in the same time frame so as to effectively replace the expertise in the Office of the Deputy Prime Minister's Pensions Division. If this were not the case, then it would be seriously detrimental especially for those whose disputes are with employers who are also the Administering Authority.

Before change occurs guidelines setting out the minimum standards as to how the dispute should be investigated should be agreed and in force. The ODPM should at least retain its role in the Disputes Procedure for ill health retirement until such time as the ill health provisions have been modified and changes are made to the IDR within Local Authorities that will make them more fair and consistent in practice.

SIMPLIFICATION CHANGES TO THE SCHEME'S PROVISIONS

UNISON have argued consistently over the years that even under current Inland Revenue rules, the scheme could allow members to accrue more service especially in the form of additional years. We look forward to an early review and implementation of changes that will allow members to benefit from the probable simplification of the regime for taxing pension scheme.

EMPLOYEES' CONTRIBUTION RATE

Recent survey by the Employers Organisation has confirmed that one of the main reasons that members do not join the pension scheme is because of the cost. Increasing contributions rates for employees at this time, especially if

there are to be serious detrimental changes to the pension scheme benefits, are likely to send out a very negative message and will mean that an even higher proportion of the workforce is unable to benefit from an important part of their employment package, i.e. the pension scheme.

It is easier to pick dates arbitrarily to support the view that contribution rates should either be maintained at their present level or increased. The fact is that costs rise and fall and that, in the long term, the employer pays the majority of the costs. Certainly it is arguable that the recent increases in employer costs do no more than offset the periods when employers were taking contribution holidays, and for under funding of the pension funds in the past.

There should certainly be further discussion on this issue. A 'knee jerk' reaction to increase contributions at this time may well have a serious detrimental effect on the long-term viability of the scheme.

In particular, we would be happy to consider banded contributions so that the low paid and young members would find it less of a burden to join and remain in the scheme.

PARTNERS' BENEFITS

We hope that overriding legislation may effect this provision in the near future. We continue to argue that there is no excuse for not introducing Partners' Pensions at the present time. Work undertaken by the Employers Organisations and the Trade Unions in 2001/2 showed conclusively that there would be no increase in employer contributions of introducing this change. The view that savings caused by fewer spouses pensions being payable, should somehow be paid back to the taxpayer has never been quantified and is likely to cost funds more to action than the saving generated.

The funded nature of the LGPS is being used as an excuse to rush through change to retirement ages in the LGPS on a timetable that is out of step with the rest of the public service. It is strange therefore that where it is demonstrated that a change, that removes discrimination and will not increase employer costs as a result of the funded basis of the scheme, is not rushed through in a similar manner and implemented immediately.

Members are increasingly frustrated by the apparent double standards.

REDUNDANCY

UNISON would be totally opposed to any detriment to the current redundancy provisions. Clearly they exist for members who are made redundant over the age of 50 and will find it almost impossible to seek redeployment elsewhere. Allowing the employer some discretion as to who gets, and who does not get a reduction on their accrued pension, is a recipe for abuse and unfairness and

may in itself contravene the Superannuation Act 1972 in respect of accrued benefits.

DISCRETIONARY PAYMENTS

UNISON believes that discretion should be paid in a fair and equitable manner and that discretion should not be fettered by further reducing the scope of discretionary compensation regulations. The issue is not so much the regulations as the guidelines that are in place. Already we have examples of Authorities who have tried to fetter their discretion through their guidelines and appear not to take account of the fact that the people that they are dismissing prematurely will often find it almost impossible to obtain alternative employment.

Glyn Jenkins
UNISON
Senior Pensions Officer