

# CYNGOR SIR POWYS COUNTY COUNCIL

## Pensions and Investment Committee 11<sup>th</sup> July 2016

**REPORT BY:** Strategic Director of Resources

**SUBJECT:** Draft Local Government Pension Scheme  
(Amendments) Regulations 2016 - Consultation

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**REPORT FOR:** Information

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### **1 Introduction**

- 1.1 On 20<sup>th</sup> May 2016 the Department for Communities and Local Government ("DCLG") issued the Draft Local Government Pension Scheme (Amendment) Regulations 2016 for consultation. These draft regulations propose amendments to the Local Government Pension Scheme Regulations 2013 and, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Consultation responses must be submitted by 20<sup>th</sup> August 2016.

### **2 Background**

- 2.1 The provisions contained in the draft regulations take into account the day-to-day experience of applying the 2013 Regulations since 1<sup>st</sup> April 2014 where areas of clarification have been sought or where a change of approach has been requested. In addition, recent Government policies have been addressed such as Freedom and Choice in Pensions and the reformed way of delivering the Fair Deal policy.

### **3 Proposed Amendments to the Local Government Pension Scheme Regulations 2013**

- 3.1 There are a number of proposed amendments, many of which are simply corrective or consequential and are not detailed in this report. The following proposals are of a substantive nature.
- 3.2 Fair Deal  
Fair Deal for Staff Pensions sets out how pension issues are to be dealt with when staff are compulsorily transferred from the public sector to independent providers delivering public services. The Government announced in December 2011 that the Fair Deal policy, introduced in 1999, was to be retained but delivered in a different way. Staff transferring from the public sector will have continued access to their public service pension scheme rather than being offered a broadly comparable private pension scheme, as was previously the case.

The Treasury published its revised guidance, Fair Deal for Staff Pensions: staff transfers from central Government, in October 2013. It covers central Government departments and their agencies, the NHS, schools that are not local authority maintained, academies, and any other parts of the public sector under the control of Ministers where staff are eligible to be members of a public service pension scheme.

In local government in Wales, The Welsh Authorities Staff Transfers (Pensions) Direction 2012 sets out the current level of pension protection for employees of Welsh county and county borough councils where the provision of services are contracted out, and staff transferred under TUPE to an independent provider. The Direction ensures that employees have the right to acquire pension benefits that are the same as or count as being broadly comparable to or better than those that they had as employees of the authority. It is now proposed that the 2013 Regulations will contain provisions to permit all transferring members to remain in the Scheme. At this stage, it is unclear whether the Direction will be revoked by Welsh Government (as it is proposed will happen in England), although the proposed amendment to the Scheme would render the Direction as redundant.

- 3.3 Publishing Lists of Members Participating in the Scheme  
Section 25(5) of the Public Service Pensions Act 2013, requires the publication of a list of persons to whom the Scheme relates and the list must be kept up to date. This does not require publication of the names of individual members of the Scheme but would be a list of the determinations that have been made under that section (that is to say admission agreements entered into). The draft Regulations delegate the obligations to publish this list to the relevant administering authority and away from the Secretary of State.

It is noted that this proposal will require the Fund to include such a list within the Pension Fund's Annual Report.

- 3.4 Additional Voluntary Contributions  
In order to meet the aims of the Government's pension reform 'Freedom and Choice in Pensions', it is proposed to set out a new suite of options for accessing benefits accrued through the Fund's additional voluntary contribution arrangements. A member who has accrued benefits under these arrangements may, depending on when they access those benefits, use them for one or more lump sums, to purchase additional pension, to purchase an annuity, or transfer the benefits into another appropriate pension arrangement.

- 3.5 Assumed Pensionable Pay  
The current method of calculating assumed pensionable pay can produce anomalous results for a member whose pay varies over time. The amount of ill health pension payable to a member, or the amount of death grant payable to their survivor, is currently dependant on how much pay they received in the 12 weeks or 3 months before their death or illness. In some cases, where the member's pay was relatively high

in that period then the value of the benefit to be paid will be inappropriately high but, in other cases, including those where the member was not in receipt of pay or on reduced pay due to any of the specified absences, the benefits due to them will be inappropriately low and potentially nil. Therefore, it is proposed to allow the employer the discretion to use a different pensionable pay figure that more closely reflects the normal pay of the member over longer periods of time, resulting in a more equitable rate of ill health pensions and death grant.

### 3.6 Pension Accounts Aggregation

Currently, when a member with a deferred pension account becomes an active member again, the two accounts are automatically aggregated and the member has 12 months to opt to separate the former deferred account from the new active account. This has proved to be complex to administer and to allocate earned pension into the correct tax year as the 12 month option period can mean decisions are made outside specific tax years. To remedy the position, it is proposed that an amendment is made to give the member the option to aggregate their deferred and active pension accounts within 12 months of becoming an active member. This prevents situations occurring where automatically aggregated pensions accounts have to be disaggregated and follows the policy in the 2008 Scheme which worked more smoothly.

### 3.7 Retirement Benefits

Currently, regulation 30(7)(b) has the unintended consequence of requiring that a member with both deferred and active pensions accounts has to take benefits relating to both accounts where employment is terminated due to redundancy or business efficiency and the member is required to take retirement benefits because they are aged over 55. It is proposed to amend this requirement so that the member is required to take only benefits from the active pension account in those circumstances.

### 3.8 Return of Exit Surpluses

It is proposed to allow for exit surpluses to be paid to employers that no longer have active members in a pension fund which was not previously provided for. This will give more flexibility for the Fund to manage liabilities when employers leave the Scheme.

However, it is noted that this amendment would require the Council to review its current policy in respect of the funding of accrued pension rights of staff transferred from the Council to other service providers.

## **4 Proposed Amendments to the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014**

### 4.1 Membership Before 1<sup>st</sup> April 2014

It is proposed to remove the need for an employer or former employer to give their consent when a member aged between 55 and 60 wishes to have early payment of benefits under Regulations 30(2) [early

payment of deferred benefits for deferred members] and 30A (3) [early payment of deferred benefits for pensioner members] of the 2007 Benefits Regulations. As these benefits will be reduced there is no cost to the employer, and the proposal gives the member more options about how to access their benefits which is in line with the Government's Freedom and Choice in Pensions policy.

## 5 Recommendation

- 5.1 Committee is asked to note the contents of this report and to approve the attached draft consultation response.

<b>Recommendation:</b>		<b>Reason for Recommendation:</b>	
To note the contents of the report.		As per report	
<b>Person(s) To Action Decision:</b>			
<b>Date By When Decision To Be Actioned:</b>			
<b>Relevant Policy (ies):</b>	N/A		
<b>Within Policy:</b>	N/A	<b>Within Budget:</b>	N/A
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<b>Relevant Local Member(s):</b>	