

The Local Government Pension Scheme (Scotland) Regulations 2018



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

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1. Early payment of pension at age 55 - these regulations allow deferred members of earlier schemes to elect for early payment of their benefits between age 55 and 60 without needing their former employer's consent. This also applies to pension credit members who were awarded the credit under the Earlier Schemes to be able to elect to receive their benefits early, at a reduced rate, on or after age 55.

We support the proposed amendment clarifying that, in order to allow a deferred member of the earlier scheme to apply for the early payment of their deferred benefits between age 55 and 60, the member must no longer be in the employment from which those benefits arose.

We also support the extension of this provision to include pension credit members under the Earlier Schemes.

We note the view that the facility for employers to waive or reduce any early retirement reductions can be made via the existing routes, rather than via specific amendment to the transitional provisions. For the avoidance of doubt it may still be beneficial to make this clear in Schedule 2 of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014.

2. Calculation of 'the Underpin' - the regulations also clarify how to carry out the calculation of the protection known as 'the underpin', taking into account the actuarial increase/reduction when considering the better of the two benefit options for the member on retirement.

We have no specific comment to make regarding this proposed amendment.

3. Survivor Benefits Walker & Goodwin Judgements - the regulations amend the calculation of survivor partner pensions so that surviving civil partners, survivors of married same-sex couples and male survivors of female married members are placed in a similar position to female survivors of male married members.

We support the changes being introduced to the scheme as a result of the Walker and Goodwin judgements, including the policy intention to place all survivors in the same position.

In terms of the actual draft amendments proposed, we have no specific comment to make regarding the proposed insertion of regulations 9A, 13 and 13A, 13B, 13C and 16 to the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014.

4. Further Flexibilities for Fund Authorities - these regulations provide further flexibilities for fund authorities in dealing with employers and allow for amendments to an employer's contribution rate in between valuations.

We believe that introducing greater flexibilities is a welcome amendment to the current provisions relating to employer funding. As with the scheme in England and Wales, we believe it is important for the Scottish Scheme Advisory Board and SPPA to issue supplementary guidance to administering authorities regarding the practical implementation of these new flexibilities.

While not linked directly to the introduction of employer flexibilities we do have two specific issues relating to the proposed amendments to regulations 60 and 61, which we have set out below.

Issue 1

Regulation 60 – Actuarial valuations of pension funds

The proposal is to amend 60(1) as per the wording in red to read:

(1) An administering authority must obtain-

*(a) an actuarial valuation of the assets and liabilities of each of its pension funds **both on an ongoing and a cessation basis** as at 31st March 2020 and on 31st March in every third year afterwards;*

The covering letter to this consultation states under paragraph 5 that the proposed changes mirror those that were applied to the LGPS in England and Wales in 2020. However, the proposed insertion of the words 'both on an ongoing and a cessation basis' to regulation 60(1)(a) of the 2018 Regulations does not appear under the equivalent regulations in England and Wales. This new requirement raises a couple of questions:

- It states that it applies as at 31 March 2020. As these valuations have already been signed off, are funds expected to revise valuation reports, funding strategy statements and any other associated documents to include this new requirement?
- The new wording appears to apply at Whole Fund level. Is this the intention? We think that this information would be more useful at individual employer level to give employers that are approaching (or considering) exit more information about the financial impact.
- There is no formal definition of 'cessation basis' (or 'ongoing basis') in the Regulations nor indeed in funding strategy statements. The basis used for cessation will vary between employers in the same LGPS fund depending on their circumstances e.g. an employer with a guarantor in a fund may exit on a less prudent funding basis than one with no guarantor.
- There is currently no requirement for the Fund to share the results of these cessation calculations with the relevant employer. Some results of cessation basis calculations for employers may be sensitive – would Funds be expected to publish these in the publicly available report or only to notify them to the employer?

Issue 2

Regulation 61 – Special circumstances where revised actuarial valuations and certificates must be obtained

The proposal is to add in the following additional provision, which we've highlighted in red, after 61(2) (we've included 61(2) below for context):

(2) When a person becomes an exiting employer, the appropriate administering authority must obtain-

(a) an actuarial valuation as at the exit date of the liabilities of the fund in respect of benefits in respect of the exiting employer's current and former employees; and

(b) a revised rates and adjustments certificate showing the exit payment due from the exiting employer, or exit credit payable to the exiting employer, in respect of those benefits.

(2A) An actuarial valuation as at the exit date obtained in accordance with paragraph (2) will remain fixed for a period of 90 days.

The proposal to insert this new regulation is a further deviation from the equivalent regulations in England and Wales. Our comments on this are:

- Does the 90 day 'guarantee' on the result of the cessation valuation apply from the cessation date, or the calculation date, or the reporting date? We assume that it would one of the latter two as, in practice, it can take several months after the cessation date for the final data to be gathered and the calculations to be undertaken.
- If the cessation valuation reveals a deficit, and the debt remains unpaid at the end of the 90 day period, it is not clear what a Fund should do. For example, should it apply a late payment penalty, or should investment returns (positive or negative) be applied to the original valuation, or should a fresh valuation be undertaken at a later 'as at' date than the original valuation?
- Is this wording intended to provide more certainty to employers that receive an 'indicative cessation valuation' ahead of exit? We understand that the Scottish Scheme Advisory Board have been discussing options around this for exiting employers as part of their 3rd tier employer working group. The wording as it stands appears to relate only to 'final' cessation valuations at the exit date rather than to any indicative valuations that a fund may carry out for an employer ahead of its anticipated exit. If the intention was for the amendment to apply to indicative cessations then we believe further detail will be required around this change to protect funds, the exiting employer and the remaining employers in the fund. For example, there are a range of options for preparing an indicative cessation with varying degrees of accuracy – some are very approximate and are not carried out on up-to-date data. If the rule applied to all indicative cessation valuations, then some funds may be reluctant to offer the more approximate approach to avoid 'locking in' to a rough estimate. Pushing funds down the route of commissioning more accurate indicative cessation valuations will increase the costs of providing such information to

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employers which may in turn limit the availability of information to employers i.e. very much against the intention of engaging with employers over their exit position and putting in place a managed exit plan.

5. Cost Cap - in order for GAD to finalise the result of the 2017 valuation, the cost cap figure is amended, with retrospective effect, to 1 April 2015.

We have no specific comment to make regarding this proposed amendment.

Thank you for your comments.