



Paul Needham
Department for Work and Pensions
3rd Floor West
Zone G
Quarry House
Leeds
LS2 7UA

28 November 2014

Dear Paul,

The Draft Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015

Thank you for the Department's consultation document inviting comments on the above draft regulations.

I am responding on behalf of the Local Government Association (LGA) and the Local Government Pensions Committee (LGPC) to the consultation document.

The LGA is a politically-led, cross-party membership organisation that works on behalf of councils to ensure local government has a strong, credible voice with national government. In total, 415 local authorities are presently members of the LGA. The Local Government Pensions Committee (LGPC) is a committee of councillors constituted by the Local Government Association (LGA), the Welsh Local Government Association (WLGA) and the Convention of Scottish Local Authorities (COSLA). The LGPC considers policy and technical matters affecting the Local Government Pension Scheme (LGPS) in the UK, a scheme which has over 5 million members.

Our responses to the questions posed in the consultation document are as follows:

Question 1: Do you agree that the draft regulations exempt the appropriate categories of public service schemes from providing the information at regulations 9, 10, 12, 13 and 15 of the Disclosure Regulations?

We agree that the inclusion of the additional wording in regulation 4(2)(b) of the Disclosure Regulations 2013 has the desired outcome in relation to the Local Government Pension Scheme (LGPS) in both Scotland and England and Wales.

Question 2: Are there any other types of information, currently required under the Disclosure Regulations that public service pension schemes should not be required to provide to their members?

The exemption for the appropriate categories of public service pension scheme from providing the information in regulations 9, 10, 12, 13 and 15 remain correct and appropriate for those schemes.

Question 3: Do you agree that where a public service scheme has issued a Benefit Information Statement under The Public Service Pensions Act (Information about Benefits) Directions 2014 they should be exempt from providing the information at regulation 16 of the Disclosure Regulations where a Benefit Information Statement has been issued to the member within 12 months of the request under regulation 16?

No, for the reasons set out below.

Provision of Annual Benefit Statements in the LGPS

In the LGPS we have provision in scheme regulations to provide Annual Benefit Statements (the term used to describe Benefit Information Statements in the scheme) to active, deferred and pension credit members. This provision has been in place in the LGPS in England and Wales since 1 April 2004 (via regulation 33 of SI 2004/573) and in the LGPS in Scotland since 30 June 2005 (via regulation 38 of SSI 2005/293).

In England and Wales the requirement to provide Annual Benefit Statements to active, deferred and pension credit members is currently contained in regulation 89 of the LGPS Regulations 2013 and, in Scotland, in regulation 87 of the LGPS (Scotland) Regulations 2014. These regulations also require that an Annual Benefit Statement for an active member is provided in accordance with section 14 of the Public Service Pensions Act 2013 and, therefore, the Public Service Pensions (Information about Benefits) Direction 2014 (i.e. the Direction).

Provision of Estimates of Benefits Information in the LGPS

In the LGPS we also meet with the requirements of regulation 16 of the Disclosure Regulations 2013 which provides active, deferred and pension credit members with the opportunity to request a statement of benefits where a statement of benefits has not already been provided within the last 12 months under that regulation. Meeting the requirements of this regulation is **in addition** to the provision of an Annual Benefit Statement.

LGPS funds will provide an estimate of benefits to a member who requests such an estimate. Normally this is in line with the provisions of paragraph 2(c) part 1 of schedule 5 to the Occupational and Personal Pensions Schemes (Disclosure of Information) Regulations 2013 as the member will request the estimate of benefits at a specified date. For example, an active member may wish to determine the benefits they would receive were they to draw them before their Normal Pension Age, specifying a particular date for payment. The LGPS fund would then produce an estimate of benefits for the member detailing any actuarial reduction which may be applicable at that date. The same information would not have been provided on the member's Annual Benefit Statement as this normally only shows the amount of benefits accrued at 31 March of the year to which the Annual Benefit Statement relates and a projection of benefits that would be accrued at the member's Normal Pension Age.

Impact of changes proposed in this consultation

This consultation proposes that sub-paragraph (d) should be added to regulation 16(1) i.e.

“(d) in the circumstances mentioned in paragraph (2)(a), a benefit information statement has not been provided pursuant to section 14(1) (information about benefits) of the Public Service Pensions Act 2013 in the 12 months before the request in sub-paragraph (b).”

The consultation documentation goes on to indicate that "the 2014 Directions overlaps with regulation 16 of the Disclosure Regulations" with the intention to introduce (via regulation 16(1)(d)) "an exemption so that public service pension schemes issuing Benefit Information Statements will not need to provide an additional statement under the Disclosure Regulations on request where that member has already been given a Benefit Information Statement in the previous 12 months".

We are opposed to the proposed introduction of sub-paragraph (d), at least as currently worded, for the following reasons:

1. LGPS funds provide an Annual Benefit Statement to active scheme members as required under the LGPS regulations in line with the requirements of section 14 of the Public Service Pensions Act 2013. The Direction requires that the information provided includes the information listed in Parts 1 and 2 of Schedule 5 (for active members).

2. LGPS funds also provide at least one additional estimate of benefits in each 12 month period where an active member requests such information (some funds may provide more than that). This complies with regulation 16 of the Disclosure Regulations 2013 which allows a member to request an estimate of benefits in line with the information in Parts 1 and 2 of Schedule 5 (active members).

3. The amendment that is being suggested in the consultation document would diminish the statutory rights to benefit information for active members of the LGPS. It would remove the requirement to provide an additional estimate to an active member at their request, particularly where the information requested differs from that provided in that members' Annual Benefit Statement. For example an active member who is currently age 60 is planning for retirement at age 62. They require figures to be prepared for retirement at that age to determine what the early retirement reduction factors will be to their benefits. The Annual Benefit Statement they received under section 14 of the Public Service Pensions Act 2013 only provides figures of benefits accrued at 31 March of the year to which the Annual Benefit Statement relates and a projection of benefits that would be accrued at their Normal Pension Age (in this case age 65). At the present time that member will be entitled to receive an estimate of retirement benefits at age 62, as requested by them, in accordance with their rights under regulation 16 of the Disclosure Regulations 2013. The proposed addition of regulation 16(1)(d) would mean that such a request made by the member would not need to be actioned as that member had already received an Annual Benefit Statement under section 14 of the Public Service Pensions Act 2013 within the last 12 months.

This would represent a worsening of the statutory rights active members of the LGPS currently enjoy and the LGPC/LGA would argue that such a diminishment of service provision is to the detriment of scheme members planning for their retirement. It could also lead to an increase in costs charged to employers and funds where the pension administration service has been outsourced. For example, the Service Level Agreement between a pension fund and a third party pensions administration provider may stipulate that the provider will, within the standard contract price, make available to a member the information to which they are statutorily entitled. The amendment at regulation 16(1)(d) could result in outsourced providers arguing that the requirement to provide an estimate of benefits under regulation 16 of the Disclosure Regulations would no longer be a statutory requirement and, so they would seek to levy an additional charge under the Service Level Agreement in respect of each 'additional' estimate provided.

The LGPC/LGA would, therefore, not wish to see sub-paragraph (d) added to regulation 16 of the Disclosure Regulations 2013. However, if sub-paragraph (d) is to be added, we would ask that the words "except in the case of the local government pension scheme" are added at the beginning of sub-

paragraph (d). Otherwise the LGPS could arrive at a position where the level of service provided to scheme members diminishes.

Question 4: Are there any other circumstances or schemes that should also be exempt from issuing on request benefit statements?

No, other than the points raised above.

Yours sincerely

A handwritten signature in blue ink that reads "TBE Edwards". The signature is written in a cursive style with a large initial "T" and "E".

Terry Edwards
Senior Pensions Adviser