Important Announcement (staff transfers)

Broad comparability work against the Local Government Pension Scheme in England & Wales

1. **Scope**

This announcement relates to broad comparability work carried out by the Government Actuary’s Department (‘GAD’), where staff are eligible for membership of the Local Government Pension Scheme in England & Wales (‘LGPS(E&W)’) but are to be offered membership of a broadly comparable scheme, instead of membership of the LGPS(E&W), following a compulsory transfer of employment.

The requirement to offer a broadly comparable scheme (‘the broad comparability requirement’) may arise as a consequence of the Pensions Directions under the Local Government Act 2003, the Cabinet Office Statement of Practice on Staff Transfers, the Government’s Fair Deal policy, a decision of the local authority or contracting authority or some other mechanism.

This announcement therefore affects local authorities/contracting authorities conducting procurements, contractors involved in those procurements and departments and other bodies responsible for machinery of government moves in the above circumstances. It may also be of interest to those advising on these matters.

2. **Background**

On 19 November 2012, HM Treasury (‘HMT’) published the results of the consultation on the Fair Deal policy¹, together with draft guidance on the new Fair Deal policy. HMT also confirmed that the Department for Communities and Local Government (‘DCLG’) would be considering the impact of the new Fair Deal policy upon transfers from local government and other best value authorities in the light of the existing Pensions Directions and the availability of Admitted Body Status in the Local Government Pension Scheme.


On 21 December 2012, DCLG published draft regulations for consultation on membership, contributions and benefits in relation to the 2014 reforms of the LGPS(E&W)² (the ‘new regulations’). DCLG also indicated that, subject to the consultation, it was working towards the new regulations being on the statute book in Spring 2013, in time for the 2013 valuations.

3. **Effect on GAD’s assessment of the broad comparability requirement**

Under the Statement of Practice by the Government Actuary, the assessment of broad comparability is made against those benefits provided as a right from the LGPS(E&W). Once the new regulations are on the statute book, the broad comparability assessment of the LGPS(E&W) will change from that based on the existing regulations. Existing assessments will cease to be valid for transfers of employment on and after that date; and new assessments for such transfers will need to be on the basis of the new regulations.

3.1 **How does this affect applications for GAD certificates of broad comparability, including passport certificates?**

For the time being, GAD will no longer accept applications for passport certificates against LGPS(E&W), other than in cases where the applicant can justify a short term need. This could be relevant, for example, for contractors bidding for, or winning, contracts where all transfers of staff are planned to occur before the new regulations are on the statute book.

GAD will continue to accept applications for individual broad comparability certificates covering specific procurements or machinery of government moves, where transfer of staff is planned to occur before the new regulations are on the statute book (i.e. before Spring 2013). However, please note that the certificate will be based on existing regulations, so it will cease to be valid if the transfer of staff fails to happen before the new regulations are on the statute book for whatever reason.

GAD is unable to accept applications for broad comparability certificates, including passport certificates, for LGPS(E&W) based on the new regulations until the relevant regulations are sufficiently firm for an assessment to be carried out. It is possible that this could be as late as when the regulations are on the statute book. There may be a delay of several months from when the new regulations are on the statute book before GAD is able to provide certificates, including passport certificates, for LGPS(E&W) based on the new regulations.

3.2 **How does this affect existing GAD certificates of broad comparability?**

Existing GAD certificates will not be invalidated as a consequence of the new regulations provided the transfer of staff occurs before the new regulations are on the statute book (expected to be in Spring 2013). However, such certificates will become invalid once the new regulations are on the statute book for any transfer of staff which occurs on or after that date. This will include situations where contract terms have been agreed but the transfer of staff is planned (or occurs) after the new regulations are on the statute book. GAD will issue an announcement nearer the time when existing passport certificates and individual broad comparability certificates for LGPS(E&W) become invalid and are withdrawn, at which time relevant passport numbers will be removed from the GAD website.

3.3 **How does this affect applications for GAD certificates which are currently in progress?**

It is a matter for applicants to decide whether to continue to proceed with the application. GAD will continue to process applications until and unless applicants otherwise notify GAD in writing. Where applications are discontinued, applicants will be liable for fees accrued to date. Where applications are completed, any GAD certificate issued will have a limited shelf life until the new regulations are on the statute book (as described in question 3.2 above).
3.4 **How does this affect GAD certificates of broad comparability against the Local Government Pension Scheme in Scotland (LGPS(S)) or against the Local Government Pension Scheme in Northern Ireland (LGPS(NI))?**

The new regulations cover LGPS(E&W) only. Although similar changes may be made to the LGPS regulations in Scotland and in Northern Ireland, no information has been published about such changes to date. It therefore appears likely that any such changes to the LGPS(S) and LGPS(NI) regulations will reach the statute book at a later date than the new regulations for LGPS(E&W).

Accordingly, GAD certificates which cover just LGPS(S) and/or LGPS(NI) are not affected by this announcement. However, any GAD certificate covering LGPS(S) or LGPS(NI) which also covers LGPS(E&W) is affected by this announcement and will be withdrawn when LGPS(E&W) certificates are withdrawn. Applicants with such GAD certificates may request separate GAD certificates for LGPS(S) or LGPS(NI).

3.5 **Will DCLG’s review of the impact of the new Fair Deal policy affect matters?**

It is not possible to say at this stage, but DCLG’s review may affect the content of this announcement. A further announcement will be issued once DCLG has published the outcome of its review.

3.6 **Should local authorities and contracting authorities be suspending or delaying procurements?**

Local authorities and contracting authorities may wish to take legal advice on the options available.

3.7 **What should I do if I have further questions?**

Further questions may be raised with your normal GAD contact or you can contact the Staff Transfers team at staff.transfers@gad.gov.uk, tel 020 7211 2676 or 020 7211 2752. However, please note that there remain uncertainties over a number of matters, including timescales, on which GAD is unable to provide further information.

4. **Further information**

GAD will publish further information as it becomes available.

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**Staff Transfers**

**Government Actuary's Department**