

3 November 2006

Addressees as below

Our Ref:  
Your Ref:

Dear Colleague,

**Local Government Pension Scheme (LGPS) Regulations 1997: Notification of Intent  
Additional Voluntary Contributions (AVCs) and Trivial Commutation**

With the Minister's agreement, I am writing to let you know of and seek your views on our intention to amend the regulations in respect of the purchase of AVCs and to raise the current limits for trivial commutation to the limits allowed by HMRC. Your comments are invited no later than 26 January 2007.

This letter signifies the start of the statutory consultation on the proposal. The intention is to circulate a draft SI before the end of the year. Some other minor changes following on from tax simplification are also being prepared.

**AVCs**

The amendments made on 6 April 2006\* to regulation 16 and Schedule 4 of The Local Government Pension Scheme Regulations 1997, incorporating changes flowing from the simplification of tax rules, removed the 15% limit on contributions which could be paid and on which a member would receive tax relief.

The new tax regime does not operate with such limits; instead it has limits on how much individuals can put into a pension scheme in any one year and receive tax relief. Within the LGPS at present this annual allowance is the only limiting factor.

For two groups of members – those affected by part-timer buy back and the *Preston* judgement, and those wishing to buy added years in the Scheme when close to the NRD, this change is both beneficial to the member and causes no excess strain on

\*(The Local Government Pension Scheme (Amendment) Regulations 2006 - SI 2006/966)  
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Local Government & Firefighters' Pension Schemes  
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the Scheme. Indeed the limit on the number of added years which can be purchased was intended to deal with this issue.

However, in the light of concerns expressed since this change was introduced, and to keep to the spirit of the provision of operating an AVC arrangement, it has been decided to introduce a limit on the amount of salary individual members can put into the LGPS AVC of choice, in relation to individual and combined employments. This limit will apply from the 2006/07 tax year and will be 50% for those wishing to contribute to an AVC. This new limit will not impact on the two groups mentioned above.

It reflects that AVC payments are intended to be deductions from salary, and that principle should be retained. It also deals with the issue whereby members receive 40% tax relief and can then take as cash from the total value of the accrued benefit rights, an equivalent cash return without any tax liability. This facility is possible since the LGPS regards the AVC arrangement as part of the Scheme. Such a facility is not permissible within other public service unfunded pension schemes and creates presentational issues of members receiving significant tax-free lump sums.

The new regime allows members of pension schemes to take up to 25% of the capital value of pension rights at a BCE as a tax-free lump sum. Until April 2006, members were limited to the automatic 3 x pension. It was assumed that the facility to commute pension to increase the tax-free lump sum would be taken up by 50% of membership, by value of rights. This assumption, since it reduces the liability to pay ongoing pensions, provides a saving for the Scheme sufficient to meet the costs of extending the rule of 85 and the transitional protection. This saving may not be provided, and these costs may subsequently fall to employers, if members maximise that tax-free lump sum via an AVC rather than commuting their accrued pension rights.

### **Trivial Commutation**

Currently, retirement benefits may be commuted where the annual rate of benefit amounts to no more than £195 (or £260 in the case of survivor benefits). Following tax simplification, a lump sum may be payable if the aggregate amount payable to that member or following that death is less than 1% of the standard lifetime allowance. An amendment will be made to reflect this change.

### **Draft Regulations**

It is our intention to circulate draft regulations, covering these and other minor tax-related amendments, before the end of the year. This notice of intention is being circulated in advance of draft regulations as it is intended to apply the 50% limit for AVCs retrospectively to 6 April 2006, and authorities will need to bear this in mind and advise members where AVC arrangements are or have been entered into since that date.

## **Responses**

Your comments should be sent in the first instance to Sandra Layne, Local Government and Firefighters' Pension Schemes Division, Department for Communities and Local Government, Zone 2/F7, Ashdown House, 123 Victoria Street, London SW1E 6DE by 26 January 2007.

Electronic responses can be sent to [sandra.layne@communities.gsi.gov.uk](mailto:sandra.layne@communities.gsi.gov.uk).

A summary of responses to this consultation will be published within 3 months of the close of consultation at [www.xoq83.dial.pipex.com](http://www.xoq83.dial.pipex.com)

This consultation follows the Government code of practice on consultations, which is attached at Annex A.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

As there are no direct financial implications arising from these amendments, or impacts to business, charities or the voluntary sector, a Regulatory Impact Assessment has not been prepared.

Yours faithfully,

**Keith Bloomfield**

## **ADDRESSEES**

The Chief Executive of:  
County Councils (England)  
District Councils (England)

Metropolitan Borough Councils (England)  
Unitary Councils (England)  
County and County Borough Councils in Wales  
London Borough Councils  
South Yorkshire Pensions Authority  
Tameside Metropolitan Borough Council  
Wirral Metropolitan Borough Council  
City of Bradford Metropolitan District Council  
South Tyneside Metropolitan Borough Council  
Wolverhampton City Council  
London Pension Fund Authority  
Environment Agency

Town Clerk, City of London Corporation  
Clerk, South Yorkshire PTA  
Clerk, West Midlands PTA

Fire and Rescue Authorities in England and Wales  
Police Authorities in England and Wales  
Audit Commission  
National Probation Service for England and Wales  
New Towns Pension Fund

The Secretaries of:

Local Government Association  
Local Government Employers  
LGPC  
ALACE  
PPMA  
SOLACE  
CIPFA  
ALAMA  
UCEA  
Association of Consulting Actuaries  
Society of District Council Treasurers  
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Society of Welsh Treasurers  
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Association of Educational Psychologists  
Trades Union Congress    UCATT  
UNISON                            GMB  
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