

Ms M Dunleavy  
Department for Communities and Local  
Government  
Local Government and Firefighters' Pension  
Schemes Division  
Zone 2/E6  
Ashdown House  
123 Victoria Street  
London SW1E 6DE

**Our ref :** Pen/DS

**Your ref:**

**Contact:** Dave Smith

**Telephone:** 0191 4244150

**Date:** 20 March 2007

Dear Margaret

**Local Government Pension Scheme Regulations 1997 (the principle regulations)  
Draft Local Government Pension Scheme (Amendment) (No.2) Regulations 2007**

Thank you for making available the opportunity for interested parties to comment on the draft Local Government Pension Scheme (Amendment) (No.2) Regulations 2007 (the draft No.2 Regulations).

This response reflects the views of South Tyneside Council in its role of administering authority to the Tyne and Wear Pension Fund. Consequently this response primarily addresses administrative and technical issues.

My comments follow the order of the draft No. 2 Regulations

**Regulation 3 Governance Compliance Statement**

We note that administering authorities will be required to include within the new Governance Compliance Statement a statement setting out the extent to which a delegation, or the absence of a delegation, complies with guidance issued by the Secretary of State, and if it does not do so, the reason for not complying.

Careful thought will need to go into the compiling of the Secretary of State's guidance. The guidance will need to be general and not contain any measures that would be against the interests of any administering authority.

**Regulation 4 Reports and Strategies**

Regulation 4 creates two new regulations, Regulation 76 B and Regulation 76C, within the principle regulations.

Regulation 76B

The new Regulation 76B introduces new requirements in respect of pension fund annual reports. The Tyne and Wear Pension Fund's annual report is compliant with existing best practice and it is not expected that compliance with the new requirements will pose any problems.

We do, however, have concerns that the proposed requirement to include copies of the four policy statements will increase the size of the document to the point that many potential readers will be discouraged from reading the annual report. Currently our annual report includes the SIP in full but refers the reader to web addresses for the other three documents. The inclusion of the other three documents would have the effect of lengthening the annual report from the current sixty pages to about one hundred.

We suggest that the regulations should allow administering authorities latitude to provide some of the four documents on request and/or via the pension fund's website.

#### Regulation 76C

The new Regulation 76C, which will allow an administering authority to prepare and publish a Pension Administration Strategy (PAS), is welcomed as we believe it will assist in improving benefits administration.

However, we have concerns about the requirement contained in clause 5 that an administering authority must publish its first PAS on or before 31<sup>st</sup> December 2007. The wording of clause 5 has the effect of preventing an administering authority who, for whatever reason, has not issued its first PAS by 31<sup>st</sup> December 2007, from ever issuing a PAS. We believe this will prove to be a hostage to fortune – for example, is it really intended that, where the administering authority of a fund changes after 31<sup>st</sup> December 2007, the new administering authority will never be able to issue a PAS?

We suggest that clause 5 is deleted.

#### **Regulation 5 Administration Costs**

We have long held a concern that additional administration costs continue to be incurred in respect of a small number of employers who refuse to allocate the appropriate level of priority and/or resources to addressing their responsibilities as a scheme employer. We therefore welcome the proposal to levy an additional charge on such an employer in respect of the additional administration costs which are attributable to that employer's level of performance.

We do, however, have concerns that in practice the levying of the proposed additional charge might cause complications with HMRC in respect of VAT and income tax liabilities. For this reason and also to provide administrative consistence across the

LGPS, we would prefer the inclusion of a set level of charges within the regulations – has consideration been given to this approach?

We also ask that the proposed Regulation 81A be extended to include a power to pass on any fines levied by a Regulator, Ombudsman or Court where and to the extent that the situation which resulted in the fine was caused by a failure of the employer. The proposed Regulation 81A also needs specifically to address the position where a school has opted to contract its Payroll/HR functions to a third party. If in these circumstances the quality of LGPS administration is not up to standard and results in a fine then it would be unfair if the fine could only be passed on to the LEA and the school was effectively insulated from its administrative failings.

On a technical matter, with the inclusion of the new Regulation 81A, the word annual needs to be removed from Regulation 81 (3).

I hope these comments and observations will be of some use to you in your deliberations.

Yours sincerely

**Dave Smith**  
**Pensions Manager**