

1 July 2008

To: addressees at end of the letter

Our ref: Draft Statutory Ill Health  
Guidance

Dear Colleague,

**Local Government Pension Scheme (Benefits, Membership and Contributions)  
Regulations 2007 as amended by the Local Government Pension Scheme  
(Amendment) Regulations 2008:**

**Consultation on draft Statutory Ill Health Guidance – responses invited by 12  
August 2008**

Attached for your comments is a draft of the Statutory Guidance regarding ill health provisions in the Local Government Pension Scheme (LGPS). Regulation 56(3) of the LGPS (Administration) Regulations 2008 authorises the Secretary of State to publish statutory guidance on the new ill-health retirement pension arrangements.

Stakeholders have asked that Statutory Guidance should be finalised as soon as possible and, therefore, your comments are invited by 12 August 2008. Consultees who wish to discuss the draft guidance are invited to get in touch without delay to allow any meetings to take place within the consultation period.

**The new ill health provisions**

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (*benefit regulations*) as amended by the LGPS (Amendment Regulations) 2008 provide retirement benefits for a scheme member who is medically assessed as being permanently incapable of their local authority employment, and medically judged to have a reduced likelihood of obtaining any gainful employment. The regulations provide that a top (1<sup>st</sup>) tier member will receive their accrued pension entitlements plus a service enhancement of all (100%) their prospective membership to their normal retirement rate. A 2<sup>nd</sup> tier member with a lower level of incapacity will receive 25% of prospective membership together with their accrued pension entitlements. A 3<sup>rd</sup> tier member will receive accrued benefits payable as a pension for such time as they do not obtain gainful employment, or until the employer stops payments following the review.

## **Draft Statutory Guidance**

The purpose of the guidance is to advise employers and independent medical practitioners about what they must take into account when carrying out their functions under the new three tier ill-health arrangement that came into effect on 1st April 2008, and to introduce greater consistency in decision-making across local authorities in England and Wales.

The draft guidance takes the form of descriptive text explaining the background and operation of the new ill-health retirement benefit provisions as they apply in the new look scheme from 1 April 2008, plus a description of the relevant statutory provisions, and a set of draft best practice ill health certificate documentation.

We do not wish to restrict comment on the draft paper but it is very important to note that statutory guidance can only reflect the regulations that are on the statute book. Consultees are, therefore, asked to base their comments on the content of the guidance and whether or not this accurately reflects the statutory requirement of the regulations. Questions about the new regulations are a matter, initially, for the Ill Health Monitoring Group to consider.

## **Documentation**

Section 5 of the draft guidance includes a reference to examples of pro-forma certificates which the independent registered medical practitioner is required to submit under regulation 20 (15) of the Benefit regulations, and which the employing authority is required to take into account when making their determination under regulation 20. Examples are provided in Annex A and B. These were provided by the LGE and ALAMA respectively and there has been no attempt to amend the examples. The LGE are also providing, and separate to this consultation, a more extensive set of certificates dealing with deferred members and certification at the 18 month review. Consultees may have designed their own pro-forma certificates or have a view about what might constitute a good working model that would both reflect the regulatory provisions and meet the various needs of scheme employers and medical practitioners. Comments are, therefore, also invited on the examples provided here and more generally on the content of the pro-forma certificate that should form part of the final statutory guidance.

## **Consultation responses**

Your comments should be sent by 12 August 2008 to Nicola Rochester, Workforce, Pay and Pensions, Department for Communities and Local Government, Zone 5/G6, Eland House, Bressenden Place, London, SW1E 6DE. Electronic responses can be sent to [nicola.rochester@communities.gsi.gov.uk](mailto:nicola.rochester@communities.gsi.gov.uk) .

Yours sincerely,

Lynda Jones

**Lynda Jones**  
**Head of Branch WPP3**





## Annex B

1. This consultation will be available for viewing on the LGFPS website - [www.xoq83.dial.pipex.com](http://www.xoq83.dial.pipex.com). A summary of responses will be published within 3 months of the close of the consultation on this website.
2. 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).
3. 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 the 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, of itself, be regarded as binding on the Department.
4. 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.