

DCLG CONSULTATION PAPER ON PENSIONS FOR COUNCILLORS

Introduction

1.1 This document commences a period of statutory consultation on access by councillors and other elected local office holders in England to the taxpayer-funded, Local Government Pension Scheme which will come into effect from 1 April 2014. It also covers the contribution rates that should apply to any such persons that remain active members of the Scheme. Your comments are invited on all parts of the consultation document, but in particular Chapter 3 – Proposals for consultation.

1.2 Your comments should be sent to: Councillor Pensions, Department for Communities and Local Government, Zone 5/F5, Eland House, Bressenden Place, London SW1E 5DU. Electronic responses can be sent to CouncillorPensions@communities.gsi.gov.uk.

1.3 The closing date for responses is 5 July 2013.

Background

1.4 This consultation is part of the planned process of wider reform of the Local Government Pension Scheme that began with the commitment given in the Coalition government's programme to review the long term affordability and sustainability of taxpayer-funded pension schemes.

1.5 On 19 December 2012, the Local Government Minister, Brandon Lewis, made a Written Ministerial Statement to Parliament, setting out government proposals to limit access by councillors to the taxpayer-funded Scheme in England from April 2014¹. This statutory consultation fulfils the commitment to consult on these issues.

1.6 Ministers stated that councillors are not full-time politicians or salaried town hall staff. Since that announcement, Ministers believe there has been broad-based public backing for the government's original proposal. The public seem generally surprised that councillors are receiving taxpayer-funded pensions at all.

1.7 Following the Written Ministerial Statement, the government has reflected further on the need to take a consistent approach to councillors and other elected local office holders, notably elected mayors and members of the London Assembly. This consultation therefore proposes an option under which there would be no access to the taxpayer-funded Local Government Pension Scheme for these groups either.

Setting the context

1.8 Following an original announcement on 12 September 2001, councillors were given access in 2003 to a special section of the Local Government Pension Scheme, where permitted by the local authority's remuneration panel. Councillors who are members of the taxpayer-funded Scheme receive both retirement and death benefits for a flat contribution rate of 6% of their basic and special responsibility allowances. In addition, an employer contribution is paid by the local authority: which is taxpayer-funding. Typical council contributions for future service and past service deficits range between 15% and 30% with an average of around 22%.

1.9 The provision allowing for councillors' pensions in England is contained in Section 18(3A) of the Local Government and Housing Act 1989 and the Local Authority (Members' Allowances) (England) Regulations 2003 made under the powers contained in that section; separate provisions exist for Welsh councillors. Schedule 8 to the Local Government Pension Scheme Regulations 1997 retained by transitional provisions introduced as part of scheme reforms in 2008, contains the detailed provisions as to the calculation and payment of benefits.

1.10 Benefits of the councillors' Scheme include a pension for life calculated as 1/80th of their career average pay for each year they are a member of the Scheme (increased annually with the appropriate cost of living index); a tax-free lump sum of 3x their annual pension and life cover lump sum of 2x career average pay. Other benefits include ill health early retirement and survivor benefits for eligible family members.

1.11 Councillors are eligible for their allowances to be pensionable if the local independent remuneration panel made a recommendation to that effect and that the relevant council accepted that recommendation. Where that is secured, councillors can then opt into the Scheme provided they are no more than 75 years of age.

1.12 The Councillors' Commission published a report in 2007² noting that 912 councillors in England had joined the pension Scheme by 2004. A Taxpayers' Alliance survey in February 2009³, across the whole United Kingdom, found that 3,527 councillors had pensions as of 2007-08; a further survey in January 2012⁴ found that figure had increased to 4,548 councillors by 2010-11.

1.13 The position in Wales is subject to separate arrangements. While the Local Government Pension Scheme is not a devolved matter, the

pensionability of councillors' allowances is devolved to Welsh Ministers. Therefore Wales is not covered by this consultation.

1.14 Apart from councillors, there are other elected office holders who are currently entitled to participate in the Scheme, including, the Mayor of London; members of the London Assembly and police and crime commissioners, each of whom have access to the Scheme separate from the provisions for councillors.

1.15 The Mayor of London and members of the London Assembly were given access to the Local Government Pension Scheme when the Greater London Authority was established in 2000. Under section 26 of the Greater London Authority Act 1999, the Authority has the power to make provision for the payment of pensions to the Mayor and Assembly members and the government has allowed it to do so by means of the Local Government Pension Scheme.

1.16 While it is for the Greater London Authority to determine whether pensions should be provided for the Mayor and Assembly Members, the government can determine whether they should have access to the Scheme.

1.17 Police and crime commissioners were allowed access to the Local Government Pension Scheme in November 2012, as part of an agreed package of remuneration. Given that the commissioners have only recently taken up their new posts, the government does not propose to consult on removing their access to the Scheme at this immediate point in time.

Auto-enrolment

1.18 The government does not consider that councillors are employed by local authorities or that they are workers or part-time workers. On this basis, it believes that councillors are not subject to the requirement for auto-enrolment under the Pensions Act 2008.

The case for change

1.19 As part of wider public service pension reform, the government has been considering whether councillors and other directly elected local office holders should continue to have access to the taxpayer-funded Local Government Pension Scheme.

1.20 Councillors are volunteers, elected to their local council to represent their local community. Councillors are not paid a salary or wages, but they are entitled to allowances and expenses to cover their out-of-pocket costs of carrying out their public duties.

1.21 However, the government has become concerned that allowances have slowly become a form of salary, a situation exacerbated by state-funded pensions. This could have a negative effect on local democracy

and the independence of councillors to represent their communities if it blurred the distinction with paid employees.

1.22 The Mayor of London and members of the London Assembly are paid a salary. Nevertheless, the government is not convinced that membership of the taxpayer-funded Scheme is appropriate for any local elected office holder. The Greater London Authority is a tier of local government.

1.23 Carrying forward the provision into the new Scheme would perhaps be justified if no other form of supplementary pension provision was available. But closing off councillors' access to the new taxpayer-funded Scheme would not prevent them from making good any potential shortfall in their personal pension provision elsewhere.

1.24 We are not aware of any evidence that provides an assessment of whether offering access to the taxpayer-funded Scheme has resulted in any change in the number of people putting themselves forward for service as councillors or other elected office holders. Respondents to this consultation are welcome to make representations on this point.

Proposals for consultation

1.25 The government does not, as a matter of principle, believe that councillors and other local elected office holders should have access to a taxpayer-funded pension scheme designed for employees. However, the government is aware that there are other opinions on this matter and that some support full-time 'professionalisation' of councillors.

1.26 Taking these and the other points into consideration, the government has identified three options for consultation whereby councillors and local elected office holders may, or may not, access the new Scheme from 2014. Police and crime commissioners would remain eligible for Scheme membership under each option.

Option 1: No access to the new Local Government Pension Scheme from April 2014 through being directly elected to local office. Thus, councillors; elected mayors; the Mayor of London and members of the London Assembly would be excluded from active Scheme membership – **this is the government's preferred position;**

Option 2: Two-tier membership - continued access for 'front bench' councillors only. This option could include just elected mayors (including the Mayor of London) and elected leaders or could encompass all those with a special responsibility allowance (including members of the London Assembly) – the government would welcome views on which councillors and elected local office holders should be eligible if this option were to be pursued;

Option 3: No change. Access to the taxpayer-funded Local Government Pension Scheme remains for all councillors and elected local office holders on the same basis as at present.

1.27 Whichever option is pursued, those already in the Scheme would have their accrued rights up to April 2014 fully protected.

1.28 Furthermore, whatever the outcome, these proposals would not prevent councillors and other elected office holders contributing to a personal pension and be able to put aside part of their (taxable) allowances or salary and receive income tax relief should they wish to, subject to the prevailing tax rules.

1.29 Question 1: Taking account of the issues raised in this consultation document and any other considerations, what option do you prefer and why?

1.30 Question 2: Do you have any alternative proposals on councillors and other elected office holders access to the Scheme?

1.31 In addition, as part of this consultation, the government will consider whether withdrawal of continued access to the taxpayer-funded Scheme will cause hardship in any individual cases, and whether anything could or should be done to mitigate this. The government therefore requests any evidence to assist this consideration.

Contribution rates

1.32 The government's preferred option is to end access to the Scheme for councillors. However, this consultation also considers the issue of contribution rates.

1.33 Currently all councillors that are members of the taxpayer-funded Scheme play a flat rate of 6%, regardless of the level of their allowances. If councillors continue to have access post April 2014 and if that rate continued, some councillors' contribution rates would be out of kilter with the rest of the Scheme, placing too high a burden on local taxpayers.

1.34 It is proposed therefore, that from April 2014, any councillors who remain members of the Scheme are moved away from a flat rate 6% contribution to a tiered tariff based on the level of allowances received.

1.35 The government proposes that councillor contributions be brought in line with the rest of the Local Government Pension Scheme with a floor limit of 6%. Current proposals for the new Scheme would allow for the following councillor contribution rate:

<i>Pensionable allowance range</i>	<i>Contribution rate</i>
Up to £21,000	6%
£21,001 to £34,000	6.5%
£34,001 to £43,000	6.8%
£43,001 to £60,000	8.5%
£60,001 to £85,000	9.9%
£85,001 to £100,000	10.5%
£100,001 to £150,000	11.4%
£150,001 or more	12.5%

1.36 Question 3: If councillors continue to have access, do you agree with the proposed change in contribution rate? If not, what contribution rate would you recommend?

1.37 Police and crime commissioners, the Mayor of London and members of the London Assembly (if they continue to have access) are already members of the main Scheme and will therefore automatically move to the new Scheme contribution rates (with normal employees) from April 2014.