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Our ref: LGPS Policy Consultation 04102018  
Your ref:  
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LGF Reform and Pensions Team  
Benefits Consultation  
Ministry for Housing, Communities  
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LONDON, SW1P 4DF

**LGSS Pensions**  
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Dear Sir or Madam

**Local Government Pension Scheme: Technical Amendments to Benefits  
Policy Consultation**

With reference to the policy consultation launched on 4 October 2018, I respond on behalf of LGSS Pensions as their Head of Pensions. LGSS Pensions provide the pension administration service to both Cambridgeshire County Council and Northamptonshire County Council, being the administering authorities for the Cambridgeshire Pension Fund and the Northamptonshire Pension Fund respectively.

Set out below are comments on whether the proposed approach in relation to the three specific areas of reform mentioned in the consultation is supported or not.

**Survivor Benefits**

**Amendments to benefits payable to same-sex married or civil partners**

It is noted that:

- the Government policy is that all public service pension schemes should implement changes to provide that survivors of registered civil partnerships or same-sex marriage will be provided with benefits that replicate those provided to widows, and
- the intention is that such a change to the LGPS Regulations will be implemented with retrospective effect from the respective dates that civil partnerships and same-sex marriages were first able to be entered into.

Whilst the proposal to formally amend the LGPS Regulations to address the issue of discrimination on the basis of sexual orientation following the Supreme Court's decision in the case of *Mr Walker v Innospec Ltd and others* is welcomed as far as it goes, my concern is that it may not go far enough and could therefore leave scope for yet further discrimination claims.

Given that the proposal is to provide survivors of registered civil partnerships or same-sex marriage with benefits to replicate those that would otherwise be payable to a widow regardless of the actual member's sex, it must surely only be a matter of time before a lower equivalent opposite-sex widower's pension is successfully challenged as discriminatory.

LGSS Pensions experienced the additional workload and expense of managing specific cases in both Pension Funds that were in similar circumstances to those of Ms Brewster through the protracted process from the judgement in her case to the consequences of it finally being given a formal legal footing in the LGPS in England and Wales with the Elmes judgement being determined. These costs and issues will doubtless have been replicated nationally, but more worryingly from an individual administering authority perspective there is the risk that any of them could potentially be the next one to be subjected to a new legal challenge with all of the costs and negative effects that entails.

It is for this reason that I would support the equalisation of benefits payable to widowers to those payable to widows being addressed now alongside the currently proposed amendments so as to avoid such delays, costs and issues.

#### **Power to issue statutory guidance**

The consultation document mentions the background to the proposal that the Secretary of State be given the power to issue statutory guidance on the operation of the Scheme's rules having its root in what followed the Brewster judgement.

Having been amongst those that had fully expected either amendment to the LGPS Regulations, or at the very least the issue of statutory guidance, to bring about swift resolution of 'Brewster-type cases' in the LGPS in England and Wales, the proposal is supported so long as there is provision for, and proper regard given to, appropriate consultation being undertaken in relation to both the policy intention *and* the technical implementation to be contained in any statutory guidance *before* it is issued.

Including a robust consultation requirement would go some way to allaying concerns about any potential misuse of such a power. It would also give the best chance of ensuring that the guidance is worded in such a way that it is clear, accurately reflects the policy intention, addresses any potential 'transitional' requirements and does not inadvertently introduce unintended consequences, so that its effect can be implemented in the most effective and efficient way possible.

#### **Early access to benefits for deferred members of 1995 Scheme**

The approach of bringing the 1995 Scheme deferred members into line with those deferred members covered by the later Schemes, so that they may draw benefits at any point between attained age 55 and their Normal Retirement Date, with appropriate early payment reductions, is supported.

The proposal to introduce a window of 6 months from the coming into force of the amendment to allow those members who had been prevented from getting early access to their benefits from the introduction of the original amendment in May 2018 to prevent such members being disadvantaged is also supported.

While the consultation document is silent on this matter, I would also support the removal of the requirement that a 1995 Scheme deferred member must have ceased to be in local government employment in order to draw their benefits before their Normal Retirement Date. Bringing these members into line with those covered by the later Schemes and requiring them to have left the employment to which the deferred benefit relates would seem reasonable, thereby preventing a member who had opted out prior to 1 April 1998 accessing those benefits while they were still in that same employment.

I trust that this response proves helpful and look forward to the outcome of the consultation and the introduction of the Amendment Regulations in due course.

Yours faithfully,



Mark Whitby APMI, CPFA  
Head of Pensions  
LGSS Pensions