



## **LOCAL GOVERNMENT PENSION SCHEME NEWSLETTER**

**OCTOBER 2006**

### **Judicial Review**

Some disappointing news that the Judicial Review into the Government's withdrawal of the 85 Year Rule in the Local Government Pension Scheme has fallen.

### **Judicial Review Decision**

In the Judicial Review hearing, the Department for Communities and Local Government (DCLG) argued that age discrimination was not the main reason for removing the 85 Rule and limiting protection to 2016. They said that cost was key factor in their decision.

In his decision, the judge ruled that:

- It was not necessary to show that age discrimination was the "dominant" factor in DCLGs' decision – just that they were influenced by it.
- Even if DCLG had interpreted the European Directive on age discrimination wrongly, they would still have made the decision to end the 85 Rule on cost grounds.
- Age discrimination did not "colour" the 2005/2006 consultation on the draft Regulations, therefore there was not need to even examine the Government's interpretation of the Directive.
- Cost and financial viability of the scheme were "major considerations"
- The consultation process was not flawed. It was based on extensive discussions between the Government and the unions.
- DCLG were able to rely on advice from the Government Actuary's Department (GAD) because of those discussions.
- The 85 Rule is discriminatory under Article 2 (2) of the European Directive because the distinguishing feature of the different treatment of scheme members is age, however...  
...
- The 85 Rule was not exempt from the Directive because it is based on criteria other than age ie. Length of service.
- DCLG opted for the protection provisions "which better fitted the economic considerations" and these were justified.

## What Next?

We will be taking forward arguments to extend protections in view of the fact that other Public Service workers have had more beneficial protections and also Local Government workers in Scotland have got a longer protection period than is presently the case in England, Wales and Northern Ireland.

## Paying More For Less?

It has also become clear that the Local Government Association (LGA) want to reduce the employer contribution from 14.5% to 13%, although DCLG do not seem to want it to fall below 14%. This would mean an increase in employee contributions for reduced benefits. Such an increase would obviously be unacceptable. It would mean the LGPS members would effectively be paying for the savings made from reducing your 85 Rule benefits and from the new 25% lump sum commutation provision!

## Amicus LGPS Campaign and Response

The consultation to the New Look LGPS Scheme ended on 29 September. The draft regulations will appear towards the end of November. There will then be a 12 week consultation period on them.

The main points in the Amicus submission are as follows:

- We are strongly opposed to the proposals on ill health retirement and while prepared to consider better targeting of benefits we reject the proposed reduction in the level of ill health provision
- We support the proposed increase in death in service lump sum and the introduction of partners pensions and give these higher priority than any increase in the general level of dependants pensions
- Whilst maintaining our opposition to the abolition of the Rule of 85 and our support for improved early retirement factors, we do support the measures to facilitate flexible early retirement
- We reject any move to reduce the general level of employer contributions below the established level of 14.5%
- We are prepared to accept a modest increase in employee contributions provided this is associated with designated improvements in benefits in the New Scheme
- We support the introduction of tiered employee contribution rates and their final shape should be related to which Option for the New Scheme design is adopted.
- If a final salary Option is maintained then we believe it has to be on the basis of Option B rather than Option A
- Of the CARE options, we prefer Option C.2 and believe that a modified version of this would be attractive to the majority of our members
- We are opposed to the hybrid Option D, which would create more problems than it resolves
- We believe that members past service benefits should be maintained on current terms rather than transferred into the New Scheme

With the consultation on the New Look Scheme over and unwelcoming noises on contribution rates emerging from the LGA and DCLG we need every single member in jobs covered by the LGPS to campaign and **become active in fighting to preserve a decent LGPS Pension Scheme.**

## **What We Are Doing**

- Seeking urgent meetings with Ruth Kelly and Shadow Local Government Ministers and their LGA equivalents.
- Looking to have a meeting of the Tripartite Committee.
- Making it clear to the LGA that the promise to negotiate in April's Joint Statement has to stick.
- Writing to Amicus MPs with a briefing on our submission on the New Look Scheme, costings and protection.
- Writing to LGPS employers, urging them to lobby the LGA and the DCLG in support of the Trade Union Side objectives on protection and the New Look Scheme.
- Contacting councillors to gain their support.

## **What You Can Do**

We need to demonstrate to the Government, the LGA and the Local Government Employers (LGE) the level of anger amongst our members so that they realise that the threat of further industrial action is real.

We are therefore asking shop stewards' committees to do the following:

- Request a copy of your employer's submission to the DCLG consultation on the new look scheme. Please email a copy of the response to [Bryan.freake@amicustheunion.org](mailto:Bryan.freake@amicustheunion.org). Postal address Bryan Freake, Pensions Department, Amicus, 33-37 Moreland Street, London EC1V 8HA.
- Urge your employer to write to the LGA and DCLG supporting the Trade Union Sides objectives on protection and the New Look Scheme.
- Write to your local MP urging them to lobby the DCLG prior to the laying of the new Regulations.

## **Prepare for Industrial Action**

If the package of draft regulations and protection do not meet our objectives, we may be left with no option but to ballot for further industrial action. While we want to achieve a negotiated settlement if we can, every workplace needs to take the following steps to ensure the success of any ballot:

- Speak to all non union members, asking them to join Amicus in advance of any Industrial Action ballot.
- Contact the respective Regional Officer and Pensions contact to ensure membership data is fully up to date and accurate.
- Make sure every Local Authority and separate Admitted Body Status employers workplace is mapped and agreed within your region and identified as to where members who are in the LGPS are so that we are able to ballot.

We are approaching the crunch moment of the campaign and whilst we will work tirelessly for a negotiated settlement we have to prepare for the very real possibility of further industrial action in order to defend the LGPS.



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