

Administration and Communications Sub-Committee

Minutes of meeting held on 28th July 2015, Unison Centre, 130 Euston Road, London, NW1 2AY

Item In attendance and apologies

1. In attendance:

Glyn Jenkins	Member representative (UNISON)
Ged Dale (Chair)	LGPS Fund practitioners
Alan South	LGPS Fund practitioners
Nigel Keogh	CIPFA
Kevin Simmons	Member representative (UNITE)
Brian Strutton	Member representative (GMB)
Richard Paul	Employer representative (Education)
Cllr Mark Smith (via phone link)	Employer representative (LAs)
Janet Caiazzo	Pension Officers' Technical Group
Craig Martin	Pension Officers' Technical Group

Observers:

Lynda Jones	DCLG
Daniel Kanaris	Aon Hewitt
Annemarie Allen	Barnett Waddingham
Mark Norquay	Barnett Waddingham
Roy Roach	Hymans Robertson

Secretariat:

Terry Edwards	LGA
Karl White	LGA

Apologies:

Emelda Nicholroy	Employer representative (Education)
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2. Minutes of the meeting held on 4th September 2014

The minutes of the previous meeting were approved.

It was noted by the chair that this would be Roy Roach's and Terry Edwards' (TE) last meeting. Karl White would be taking over from Terry on an interim basis.

Janet Caiazzo asked about the provision of a master spreadsheet in respect of data quality as mentioned in the presentation by Heywood in the previous meeting. TE said he would check on this.

3a. **GAD costings for possible changes to the ill health provisions – options for removal of Tier 3**

The two proposals for the removal of the third tier of ill health were briefly discussed, those being:

Proposal One

to retain the current ‘two gate’ criteria for the establishment of entitlement to an ill health benefit; and

to move from the three tier system to a two tier system, with the criteria for a Tier 2 benefit being extended to cover those who would be entitled to a Tier 3 benefit under current provisions.

Proposal Two

to widen the eligibility criteria by moving to a ‘single gate’ approach for the establishment of entitlement to an ill health benefit based solely on permanent incapability of undertaking the current job due to ill health; and

to move from the three tier system to a two tier system, with the criteria for a Tier 2 benefit being extended to cover those who would be entitled to a Tier 3 benefit under current provisions (also including those who could immediately undertake gainful employment).

The general consensus was that the second proposal was preferable – to remove the second gate for ill health so that the sole criterion is that the scheme member be permanently incapable of performing their duties due to infirmity of mind or body.

This would avoid the undesirable position where members could be dismissed where they are permanently incapable of undertaking the duties of their post due to ill health with no benefit payable.

There followed a discussion on the best option, of those costed, to deliver the required savings.

The various options for savings were discussed. Those that did not deliver meaningful savings – such as introducing a serious ill health criteria for deferred ill health and abatement on re-employment for ill health retirees were not considered.

The remaining options of adjusting the enhancement and/or introducing a 5 year qualifying period for enhancement (meaning those members with more than 2 years but less than 5 would receive an unreduced unenhanced benefit) were discussed with a preference shown by the group for the 5 year qualification for enhancement. Some of the additional questions raised on this were:

- How the 5 year qualifying period would be made up – e.g. by public sector, Local Government or all transferred in service.
- Should opting out of the scheme require the member to ‘start again’ if they rejoined.

The desirability of recovering the cost through introducing the 5 year qualification period was seen as preferable to amending the enhancement awarded – due to simplicity and the general principle that longer scheme membership should be rewarded.

There was general consensus that Proposal 2 (the single gate) and the option to balance the cost through the introduction of a 5 year qualification period for enhanced benefits was the best route (though Brian Strutton (BS) did not support any option due to his position on the Board)

Action:

Secretariat to prepare a paper setting out the options, their pros and cons, and the sub-committee’s preferences to Scheme Board

3b. III Health – decision making

An option was presented for the further consideration, and possible agreement, of the sub-committee concerning the decision making process for ill health cases.

There was a wide discussion on the desirability of the Administering Authority making the decision on the award of ill health retirement and the tier of enhancement rather than the current situation – where the employer does so.

Though there was some agreement that this would provide greater consistency there were additional questions raised

- Would this increase workloads
- Who should make the decision at the Administering Authority
- Should the time limit be extended for a decision to be made (e.g. after termination, as in the Teachers Scheme)
- Should the employers have the right of appeal against a decision
- Does this address the problem of employers dismissing without considering ill health retirement, and what (if anything) would
- Should the administering authority gather the evidence as well and refer to the Independent Registered Medical Practitioner (IRMP)
- Will this approach reduce appeals
- Should the member be allowed to approach the Administering Authority directly to request an ill health retirement assessment
- Should there be a central IRMP panel for the provision of medical

reports (similar to the NHS)

It was agreed that, although this change could be a positive one, too many issues could remain outstanding if this proposal were recommended at this stage and that there should be a wider consultation.

Action

Secretariat to issue a consultation discussion paper to funds and, via them, employers to gather opinions.

3c. Ill Health – reduced pay protections and trial periods

A further option for consideration was brought forward in respect of potentially time limiting the pay protection in place for enhanced benefits where scheme members have agreed to work reduced hours (or reduce their grade) for a trial period, due to ill health.

If, following a subsequent ill health retirement or death in service, the IRMP certifies that the reduction in pay is due to the original ill health condition the reduction in pay can be ignored. Currently there is no time limit on this, which means a member may take a reduction in hours, become capable of again working normal hours but choose to continue working the reduced hours, retire on health grounds many years later and have APP calculated as if there had been no reduction in pay. A suggestion had been put forward that the protection should only apply if the ill health retirement or death in service occurred within 12 months of the original pay reduction (or such longer period as the employer might allow).

There was a discussion about whether a time limit was appropriate, and a recent case was mentioned.

BS felt that the consideration of this was beyond the remit of the sub-committee – since it referred to a benefit change. There was a discussion as to whether the current regulation wording simply provided a loophole to exploit which had not been intended when the original provision had been built into the Benefits Regulations.

The chair agreed to defer the item to check whether it fell under the terms of reference.

Action

Chair to check sub-committee terms of reference. If this item falls within the remit it will be carried forward to the next meeting.

4. Draft discussion paper on the Independent Disputes Resolution Procedure (IDRP)

Lynda Jones (LJ) stated that the last review of the IDR process had taken place in 2004, and that the majority of appeals are in respect of ill health.

The paper sought opinions on whether the current two stage system should be replaced with a single stage.

A number of views were put forward.

Pros for changing to a single stage

Many employers may not want the administrative burden of appeals.
Some employers don't have the technical expertise.
Greater consistency in the handling of appeals.

Cons of changing to a single stage

Current system works reasonably well.
Employers have the opportunity to correct any errors at the first stage of appeal.

The possibility of retaining a 2 stage process, with guidance being amended to emphasise that adjudicators at the 2nd stage could recommend the payment of compensation, was put forward. More guidance was also suggested.

It was recognised that this is a scheme wide issue that would need a broader consultation.

Action

Secretariat to distil and circulate questions from the IDR paper together with those raised at the meeting to the sub-committee, with a view to sending out a paper for a scheme wide discussion.

5. Generic information for members affected by the Lifetime and Annual Allowances

There was a discussion on what information should be made available to scheme members.

It was agreed that only factual information could be provided and that a tax advisor was the best source for personal advice. However, there was a clear role for the administering authority in the provision of estimates to allow prior planning and an explanation of the figures but there was a handover point.

The administering authority does have a duty of care to highlight potential changes especially in respect of paying AVCs and the effect, where known, of increases in pay/promotions.

BS mentioned that the NHS had done some good work on documentation of the tax regimes. TE said he would ask them if this could be shared.

It was agreed that there was a place for both generic and targeted information and that guidance would be useful with worked examples as the HMRC guidance was often difficult to understand (especially as it is not specific).

There was a discussion on the most recent changes to Annual Allowance from the forthcoming Finance Act and the re-alignment of the scheme year.

Due to the LGPS scheme year being 1st April to 31st March there is a possibility that the 5th April year end could be assumed as 31st March (avoiding the potential problems with administration by using a 5th April year end when pay periods are aligned to the end of the month). Discussions were due to take place on this point with Treasury and HMRC.

Action

TE to contact NHS to ask them to share their guidance.

Secretariat to contact Communications Working Group to ask them to look at what generic information should be provided/is already provided with a view to producing a generic set of guidance once the latest Finance Act is laid.

6. Any Other Business

Glyn Jenkins asked for clarity on what was due to go out for CARE annual benefit statements.

TE confirmed that the Board advice was that benefits should be projected to State pension age with no inflation assumptions.

The general feeling amongst fund practitioners was that generally the deadline of 31st August for the provision of statements was difficult to achieve and many would miss this in respect of some of their employers. Some funds chose to take the approach of staggering the sending of their statements, in order to at least partially comply.

The main difficulties were the late provision and/or quality of employer information.

TE confirmed a draft email to the Pension Regulator was with DCLG, requesting a dispensation for this year. This was yet to be sent, however it would be on the basis that any late issuance should be communicated to scheme members.

There was a discussion on the merits of monthly postings, and whether 12 'mini' year ends rather than one larger exercise would help the process.

Actions

The Secretariat to provide guidance to funds and notify funds of any dispensation if this is received.

The Secretariat to email Pension Funds after the 31st August deadline for information on the proportion of ABS issued before the deadline, together with a question on whether monthly or yearly postings are used.

7. Dates of next meetings

To be agreed